

APPEAL, MAG

**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:99-cv-07357-VVP**

Securities and Excha v. Curtis, et al
Assigned to: Magistrate-Judge Viktor V. Pohorelsky
Demand: \$0
Cause: 15:78m(a) Securities Exchange Act

Date Filed: 11/10/1999
Jury Demand: Defendant
Nature of Suit: 850 Securities/Commodities
Jurisdiction: U.S. Government Plaintiff

Plaintiff**Securities and Exchange Commission**

represented by **Bohdan Stephen Ozaruk**
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GRAUBARD DECL. EX. 2**SEC050**

V.

Defendant

Grant R. Curtis

TERMINATED: 07/25/2002

represented by **Grant R. Curtis**

91800011

FPC Nellis

C.S. 4500

North Las Vegas, NV 89036-4500

TERMINATED: 07/25/2002

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant

Leo Mangan

TERMINATED: 11/10/1999

Defendant

Timothy H. Masley

TERMINATED: 01/31/2005

Defendant

James W. Nearen

TERMINATED: 11/10/1999

Defendant

Raimond Irni

TERMINATED: 07/25/2002

Defendant

Pedro Dibrito Gomez

TERMINATED: 11/10/1999

Defendant

Donald E. Kessler

TERMINATED: 11/10/1999

Defendant

David R. Behanna

TERMINATED: 07/25/2002

Defendant

Andrea Varsi

TERMINATED: 11/10/1999

Defendant

Jonathan D. Lyons

TERMINATED: 01/31/2005

Defendant

Kenneth A. Orr

TERMINATED: 09/18/2002

represented by **Ira Lee Sorkin**

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Defendant

Lillian M. Vinci
TERMINATED: 07/24/2002

Defendant

Ann Marie Noel
TERMINATED: 07/25/2002

represented by **Rebecca E. Hollander-Blumoff**
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Defendant

Michael V. Lipkin
TERMINATED: 03/09/2006

represented by **Michael V. Lipkin**
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Defendant

Joshua S. Shainberg
TERMINATED: 03/09/2006

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Defendant**Phillip J. Milligan**

represented by **Phillip J. Milligan**
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 PRO SE

Defendant**Robert L. Shatles**

represented by **John E. Lawlor**
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Date Filed	#	Docket Text
11/10/1999	1	COMPLAINT filed and summons(es) issued for Grant R. Curtis, Leo Mangan, Timothy H. Masley, James W. Nearen, Raimond Irni, Pedro Dibrito Gomez, Donald E. Kessler, David R. Behanna, Andrea Varsi, Jonathan D. Lyons, Kenneth A. Orr, Lillian M. Vinci, Ann Marie Noel, Michael V. Lipkin, Joshua S. Shainberg, Phillip J. Milligan, Robert L. Shatles (Chin, Felix) (Entered: 11/16/1999)
11/10/1999	4	FINAL JUDGMENT/PERMANENT INJUNCITON as against deft Andrea Varsi; deft permanently enjoined from the sale of any security; etc. deft shall pay \$5,000 civil penalty pursuant to Sec. 20 (d) of the Securities Act. (CM from Chambers). (signed by Judge Nina Gershon dated 11/19/99). (Greves, Liz) Modified on 12/14/1999 (Entered: 12/14/1999)
11/10/1999	5	FINAL JUDGMENT/PERMANENT INJUNCTION against James W. Nearen; deft permanently enjoined from the sale of any security; etc. payment of disgorgement & prejudgment interest waived. (CM by chambers). (signed by Judge Nina Gershon dated 11/19/99). , (Greves, Liz) (Entered: 12/14/1999)
11/10/1999	6	FINAL JUDGMENT/PERMANENT INJUNCTION against Leo Mangan; deft permanently enjoined from the sale of any security; etc. payment of disgorgement & prejudgment interest waived. CM from chambers. (signed by Judge Nina Gershon , on 11/19/99). , (Greves, Liz) (Entered: 12/14/1999)
11/10/1999	7	FINAL JUDGMENT/PERMANENT INJUNCTION against Pedro Dibrito Gomez; deft permanently enjoined from the sale of any security; etc. payment of disgorgement & prejudgment interest waived. CM from chambers. (signed by Judge Nina Gershon , on 11/19/99). , (Greves, Liz) (Entered: 12/14/1999)
11/10/1999	8	FINAL JUDGMENT/PERMANENT INJUNCTION against Donald E. Kessler. Deft

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		permanently enjoined from the sale of any security; etc. payment of disgorgement & prejudgment interest waived. CM from chambers. (signed by Judge Nina Gershon , on 11/19/99). , (Greves, Liz) (Entered: 12/14/1999)
11/29/1999	2	ORDER dated 11/24/99 that a status conference will be held at 3:30PM on 2/16/2000 before Magistrate Caden. CM (signed by Magistrate John L. Caden). (Greves, Liz) (Entered: 11/29/1999)
12/07/1999	3	ANSWER to Complaint by Kenneth A. Orr. (Greves, Liz) (Entered: 12/08/1999)
12/13/1999	9	LETTER undated, from Michael Lipkin, to David Rosenfeld, advising that he does not have any documents that he can refer to in this matter. (Murphy, Margaret) (Entered: 12/14/1999)
12/15/1999	10	STIP/ORDER dated 12/14/99 that time within which defts Robert L. Shatles & AnnMarie Noel may move or answer extended to & including 1/31/2000. (signed by Judge Nina Gershon). (Greves, Liz) (Entered: 12/15/1999)
12/15/1999	12	STIPULATION and ORDER, that the Def't.'s time to move with respect to the complaint is extended to and includes 1.31.00. (Signed by Judge Nina Gershon, on 12.23.99). (Hunter, Tara) (Entered: 01/03/2000)
12/27/1999	11	ANSWER to Complaint by Michael V. Lipkin. (Hunter, Tara) (Entered: 01/03/2000)
01/12/2000	13	LETTER dated 1/6/200 from David Rosenfeld to Judge Caden enclosing copies of letters sent to defts who have been served in this matter, notifying them of the status conference scheduled for 2/16/2000, & the Rule 26(f) meeting which has been scheduled for 1/31/2000. (Greves, Liz) (Entered: 01/12/2000)
02/03/2000	14	STIPULATION and ORDER dated 2/2/2000 that time within which deft Ann Marie Noel may move, answer or respond to complaint extended to & including 3/15/2000. (signed by Judge Nina Gershon). (Greves, Liz) (Entered: 02/03/2000)
02/09/2000	15	STIPULATION and ORDER dated 2/8/2000 that Marvin G. Pickholz is relieved by deft Kenneth Orr as his counsel & Joseph P. Albanese is substituted as counsel. (signed by Judge John Gleeson). (Greves, Liz) (Entered: 02/09/2000)
02/15/2000	16	ANSWER to Complaint by Robert L. Shatles; jury demand (Greves, Liz) (Entered: 02/16/2000)
02/23/2000	18	STIPULATION and ORDER dated 2/24/2000 that time within which defts David Behanna & Lillian M. Vici may move, answer or respond to complaint extended to & including 3/15/2000. (signed by Judge Nina Gershon). (Greves, Liz) (Entered: 02/29/2000)
02/28/2000	19	ANSWER to Complaint by Grant R. Curtis. (Hunter, Tara) (Entered: 03/07/2000)
03/02/2000	20	ORDER, that the Pltff's request to stay until he is released is referred to Magistrate Caden who is supervising pre-trial proceedings. (Signed by Judge Nina Gershon, on 2.7.00). See copy of letter dtd. 2.16.00 to Judge Gershon from Phillip Milligan. (Hunter, Tara) (Entered: 03/20/2000)
03/02/2000	22	LETTER dated 2.16.00 from Phillip Milligan to Judge Gershon requesting a stay with regard to any response that might be necessitated by him until he is released. (Hunter, Tara) (Entered: 04/05/2000)
03/31/2000	21	STIPULATION and ORDER, resetting the answer deadline to 5/23/00 for Ann Marie Noel . Signed by Judge Nina Gershon on 3/29/00. (Asreen, Wendy) (Entered: 03/31/2000)
05/11/2000	23	LETTER dated 5.4.00 from Grant Curtis to Magistrate Caden writing regarding Mr. Ray Irni's deposition. (Hunter, Tara) (Entered: 05/15/2000)
05/19/2000	24	RETURN OF SERVICE executed as to Grant R. Curtis 1/27/2000, Leo Mangan 11/18/1999, Raimond Irni on 1/5/2000, Pedro Dibrito Gomez on 11/30/1999, Donald E. Kessler 11/17/1999, David R. Behanna on 11/16/1999, Andrea Varsi on 11/16/99, Jonathan D. Lyons on 11/19/1999, Lillian M. Vinci on 1/6/2000, Ann Marie Noel 11/16/99, Michael V. Lipkin on 12/3/1999, Joshua S. Shainberg on 12/2/1999, Phillip J. Milligan on 12/22/1999, Robert L. Shatles on 11/19/1999. (Greves, Liz) (Entered: 05/22/2000)
GRAUBARD DECL. EX. 2		SEC054

05/22/2000	25	STIPULATION and ORDER (not dated) that time within which deft Ann Marie Noel may move, or answer extended to & including 6/30/2000. CM (signed by Judge Nina Gershon). (Greves, Liz) (Entered: 05/24/2000)
06/13/2000	26	NOTICE of Certificate of Service by Securities and Excha Notice of Depo. to depose Raimond Irni on 5/11/2000 to the following (see document) (Jackson, Ramona) Modified on 06/14/2000 (Entered: 06/13/2000)
06/13/2000		CASE NO LONGER REFERRED TO Magistrate John L. Caden (Chow, Alice) (Entered: 06/16/2000)
06/13/2000		CASE REFERRED to Magistrate Viktor V. Pohorelsky (Chow, Alice) (Entered: 06/16/2000)
06/16/2000	29	LETTER dated 6/16/00 from David Rosenfeld, Chief, Branch of Enforcement No. 8 to Magistrate Pohorelsky requesting leave of the Court to take the deposition of Raimond Irni on or before 6/22/00. (Lee, Tiffeny) (Entered: 06/30/2000)
06/26/2000	27	ORDER, that the SEC will take the deposition upon oral examination of Raimond Irni prior to 5/19/00. (Signed by Magistrate Viktor V. Pohorelsky on 6/9/00 nunc pro tunc) (Johnson, Tanya) (Entered: 06/26/2000)
06/26/2000	28	LETTER dated 6.22.00 from Grant Curtis to Magistrate Judge Pohorelsky writing regarding Mr. Ray Irni's deposition. (Hunter, Tara) (Entered: 06/27/2000)
06/30/2000	30	ORDER granting leave of Court to depose Raimond Irni prior to 6/22/00. Signed by Magistrate Viktor V. Pohorelsky , on 6/20/00. (Lee, Tiffeny) (Entered: 06/30/2000)
07/19/2000	31	STIPULATION and ORDER extending time to answer. Answer due on 8/15/00 for Ann Marie Noel . (signed by Judge Nina Gershon on 7/14/00) {c/m by chambers} (Rodriguez,Angela) (Entered: 07/19/2000)
07/19/2000	32	ORDER adjourning 6/16/00 status conference to 8/14/00 at 11:00 a.m. Signed by Magistrate Viktor V. Pohorelsky, on 7/17/00. (Lee, Tiffeny) (Entered: 07/19/2000)
08/23/2000	33	ORDER endorsed on letter dated 8/5/00 from Della Richardson to Magistrate Pohorelsky. The conference scheduled for 8/14/00 is adjourned to 9/15/00 at 9:30. (signed by Magistrate Viktor V. Pohorelsky on date not indicated) (Rodriguez,Angela) (Entered: 08/24/2000)
09/15/2000	35	Calendar entry: Discovery conference held before Magistrate Pohorelsky on 9/15/00. Scheduling order entered. (Rodriguez,Angela) (Entered: 09/26/2000)
09/20/2000	34	STIPULATION and ORDER extending defendant Noel's time to answer. Answer due 9/15/00 for Ann Marie Noel . (signed by Judge Nina Gershon on 9/18/00) c/m by chambers. (Rodriguez,Angela) (Entered: 09/20/2000)
09/26/2000	36	SCHEDULING ORDER setting Joining of parties,amending of pleadings on 8/1/01 ; Status conference by 11:00 on 2/23/01; Discovery cutoff 10/31/01 ; Pretrial order to be submitted on or before 9:30 on 12/14/01; Request for Pre-Motion conference by 11/30/01; (signed by Magistrate Viktor V. Pohorelsky on 9/15/00) c/m by chambers. (Rodriguez,Angela) (Entered: 09/26/2000)
10/04/2000	38	STIPULATION and ORDER extending defendant Noel's time to anser. Answer due 10/31/00 for Ann Marie Noel . (signed by Judge Nina Gershon on 10/6/00) c/m by chambers. (Rodriguez,Angela) (Entered: 10/16/2000)
10/06/2000	37	Rule 26(a) Automatic Disclosure Statement by Securities and Excha. (Lee, Tiffeny) (Entered: 10/12/2000)
11/20/2000	39	STIPULATION and ORDER extending time to answer. Answer due on 1/2/01 for Ann Marie Noel (signed by Judge Nina Gershon on 11/8/00). (Rodriguez,Angela) (Entered: 11/21/2000)
02/09/2001	41	STIPULATION and ORDER extending defendant Ann Marie Noel's time to answer or move to 4/15/01. (returned from chambers unsigned by Judge Nina Gershon) (Rodriguez,Angela) (Entered: 02/16/2001)
02/14/2001	40	STIPULATION and ORDER extending defendant's time to answer or move to 4/15/01. (signed

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SEC055

		by Judge Nina Gershon on 2/12/01) (Rodriguez,Angela) (Entered: 02/15/2001)
02/23/2001	43	Calendar entry: Status conference held before Magistrate Pohorelsky on 2/23/01. By 3/19/01, defendants shall respond in writing to plaintiff's 10/31/00 document requests. Documents may be withheld on the basis of privilege, provided that a log be provided pursuant to Local R26 is served before due date. By 3/19/01, defendants shall provide the initial disclosures. Failure to comply will result in sanctions. (Rodriguez,Angela) (Entered: 03/05/2001)
02/26/2001	42	CERTIFICATE OF SERVICE: A copy of the of record of the 2/23/01 status conference was served on all paries on 2/26/01. (Rodriguez,Angela) (Entered: 02/28/2001)
03/07/2001	44	LETTER dated 2/26/01 from David Rosenfeld to Magistrate Pohorelsky providing an updated address for Grant Curtis. (Rodriguez,Angela) (Entered: 03/07/2001)
03/15/2001	45	NOTICE of Application for Entry of Default against defendants Masley, Milligan, and Lyons filed by SEC. (Rodriguez,Angela) (Entered: 03/15/2001)
03/15/2001	46	AFFIDAVIT of David Rosenfeld in support of application for entry of default (see doc. #45). (Rodriguez,Angela) (Entered: 03/15/2001)
03/15/2001	47	CERTIFICATE of Clerk: The default against defendants Masley, Milligan, and Lyons have been noted. Signed by Catherine Wolff, Deputy Clerk, on 3/6/01. (Rodriguez,Angela) Modified on 03/15/2001 (Entered: 03/15/2001)
03/16/2001	48	UNSIGNED ORDER entering defaults against defendants Masley, Milligan, and Lyons. (Rodriguez,Angela) (Entered: 03/16/2001)
03/20/2001	49	Automatic Disclosure prior to discovery filed by defendant. (Rodriguez,Angela) (Entered: 03/21/2001)
03/20/2001	50	LETTER dated 3/20/01 from Joshua Shainberg to Magistrate Pohorelsky advising that he has discharged his attorney of record. Mr. Shainberg has retained an attorney for the limited purposes of assisting in automatic disclosures. (Rodriguez,Angela) (Entered: 03/23/2001)
04/05/2001	51	Automatic Disclosure Prior to Discovery by Michael V. Lipkin. W/attached Response to request for Production of documents. (Document forwarded to Judge Pohorelsky). (Barrett, Charryse) (Entered: 04/09/2001)
04/25/2001	53	STIPULATION and ORDER extending defendant's time to answer or move to 5/30/01. (unsigned by Judge Nina Gershon) (Rodriguez,Angela) (Entered: 05/09/2001)
04/30/2001	52	STIPULATION and ORDER: Defendant Ann Marie Noel's time to answer or otherwise move is extended to 5/30/01. (signed by Judge Nina Gershon on 4/26/01) (Rodriguez,Angela) (Entered: 04/30/2001)
05/25/2001	54	STIPULATION and ORDER extending defendant Ann Marie Noel's time to answer to 7/31/01. (signed by Judge Nina Gershon on 5/29/01) (Rodriguez,Angela) (Entered: 06/05/2001)
07/27/2001	55	Calendar entry:.,Before Mag Pohoreslsky Discovery conf. Any motions to compel, or for sanctions for failure to provide, discovery in response to requests or orders of the court dated prior to June 15,2001 shall be made no later than AUGust 17,2001. Until further substitution of counsel is made, counsel of record of Mr Orr is Joseph Albanese, Jr., The address of record for Michael Lipkin. Joshua Shainberg pro se. set scheduling conference for 12/14/01 before Magistrate Viktor V. Pohorelsky , terminated past due deadlines (Jackson, Ramona) (Entered: 08/02/2001)
08/08/2001	56	Calendar entry: Initial conference held before Magistrate Pohorelsky on 8/8/01. The motion to be relieved as counsel made by John Lawler is granted, provided however, that counsel remains counsel on the record until he serves on all parties, and files with the Court, a notice that advises all parties that the motion has been granted and sets out the addresses and phone number for the defendant Robert Shatles which will become the address of record for that party. Should counsel hereafter choose to withdraw his motion to be relieved, notice of the withdrawl of the motion must be filed with the Court and served on counsel for plaintiff. Counsel is hereby given leave to serve and submit such a withdrawl directley to chambers by facsimile. (Rodriguez,Angela) (Entered: 08/09/2001)
GRAUBARD DECL. EX. 2		SEC056

08/09/2001	57	AFFIDAVIT of John Lawlor in support of order to show cause why Mr. Lawlor should be relieved as counsel for defendant Robert Shatles. (Rodriguez,Angela) (Entered: 08/09/2001)
08/09/2001	58	ORDER TO SHOW CAUSE: Robert Shatles is to show cause on 8/8/01 at 10:30 why an order should not be granted permitting John Lawlor to withdraw as counsel of record. (signed by Magistrate Viktor V. Pohorelsky- date not indicated) (Rodriguez,Angela) (Entered: 08/09/2001)
08/28/2001	59	LETTER dated 8/28/01 from Jack Kaufman to Magistrate Pohorelsky that the Commission hereby withdraw its sanctions request as to Orr. (Guzzi, Roseann) (Entered: 08/31/2001)
08/31/2001	60	ORDER, substituting attorney terminated attorney Joseph P. Albanese for Kenneth A. Orr. Dft now represented by De Feis, O'Connell & Rose, attorney to be added not specified . (signed by Judge Nicholas G. Garaufis, on 8/28/01) c/m (Lee, Tiffeny) (Entered: 09/05/2001)
09/19/2001	61	ORDER dated 9/7/01 that plaintiff's motion to compel is denied without prejudice. The plaintiff has until 9/21/01 to renew the motion if answers have not been provided, or to make a motion addressed to the adequacy of the responses. (Signed by Magistrate Viktor V. Pohorelsky, on 9/7/01)c/m (Guzzi, Roseann) (Entered: 09/19/2001)
09/19/2001	62	LETTER dated 8/17/01 from Jack Kaufman to Magistrate Pohorelsky to outline it's discovery disputes. (Guzzi, Roseann) (Entered: 09/19/2001)
09/19/2001	63	LETTER dated 8/2/301 from Gregory J. O'Connell to Magistrate Pohorelsky to respond to plaintiffs letter seeking sanctions. (Guzzi, Roseann) (Entered: 09/19/2001)
09/19/2001	64	LETTER dated 8/24/01 from John E. Lawlor, Esq. to Magistrate Pohorelsky in response to plaintiff's motion for sanctions against Mr. Shatles for failing to respond to the plaintiff's first set of interrogatories. (Guzzi, Roseann) (Entered: 09/19/2001)
10/09/2001	65	LETTER dated 9/26/01 from Jack Kaufman to Magistrate Pohorelsky to advise of current address of law firm and to request an enlargement of time of the discovery cut-off due to the World Trade Center tragedy. Current address of Securities and Exchange Commission, Jack Kaufman 535 West 110th St. Apt. 8J, New York, NY 10025. (Guzzi, Roseann) (Entered: 10/09/2001)
10/26/2001	66	MOTION by Securities and Excha to extend time to complete discovery , Motion hearing [66-1] motion Motion file stamped: 10/26/01 and mailed/served: 10/26/01 (Jackson, Ramona) (Entered: 11/15/2001)
10/26/2001	68	MEMORANDUM by Securities and Excha in support of [66-1] motion to extend time to complete discovery Filed with affidavit of service of above attached. (Jackson, Ramona) (Entered: 11/15/2001)
11/15/2001	67	Declaration of JACK KAUFMAN by Securities and Excha Re: in support [66-1] motion to extend time to complete discovery (Jackson, Ramona) (Entered: 11/15/2001)
11/20/2001	69	LETTER dated 11/6/01 from Jack Kaufman to Mag Pohorelsky motion for enlargement of time is unopposed. (Jackson, Ramona) (Entered: 11/20/2001)
11/20/2001	70	ORDER Deadline for completion of factual discovery 7/1/02; All deadlines extended by 8 months. Deadline for premotion conf. to 8/1/01; Pretrial conf. 8/9/02 (signed by Magistrate Viktor V. Pohorelsky , on 11/8/01) (Jackson, Ramona) (Entered: 11/20/2001)
06/28/2002	71	ORDER, substituting attorney Added Ira Lee Sorkin on behalf of defendant Kenneth Orr. (Signed by Judge Nina Gershon, on undated) (Guzzi, Roseann) (Entered: 06/28/2002)
06/28/2002	73	MOTION by Securities and Exchange Commission to modify pretrial order . Motion hearing Motion file stamped: 6/28/02. Attached declaration of Bohan S. Ozaruk; memorandum in support. (Guzzi, Roseann) (Entered: 07/17/2002)
07/08/2002	72	SCHEDULING ORDER setting deadline of factual discovery to 9/3/02; all deadlines regarding expert discovery are extended to 9/3/02; deadline for requesting a pre-motion conference is extended to 10/1/02; pretrial conference is adjourned to 10/8/02. (Signed by Magistrate Viktor V. Pohorelsky, on undated) (Guzzi, Roseann) (Entered: 07/08/2002)
07/22/2002	74	REVISED SCHEDULING ORDER dated 7/16/02 tht the deadline for completion of factual

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SEC057

		discovery is extended to 9/3/02; all deadlines regarding expert discovery are extended to 9/3/02; deadline for requesting a pre-motion conference regarding any proposed dispositive motion is extended to 10/1/02; pretrial conference is adjourned to 10/9/02 at 10:30. (Signed by Magistrate Viktor V. Pohorelsky, on 7/16/02) c/m (Guzzi, Roseann) (Entered: 07/22/2002)
07/24/2002	79	FINAL JUDGMENT and PERMANENT INJUNCTION for SEC against Lillian M. Vinci. (signed by Judge Nina Gershon on 7/26/02) , (Rodriguez,Angela) (Entered: 08/05/2002)
07/25/2002	75	FINAL JUDGMENT OF PERMANENT INJUNCTION against David R. Behanna. Defendant shall pay \$25,000 to the United States Treasury. (Signed by Judge Nina Gershon, on 7/22/02) See order for details. , (Guzzi, Roseann) (Entered: 07/25/2002)
07/25/2002	76	FINAL JUDGMENT OF PERMANENT INJUNCTION against Ann Marie Noel. Defendant shall pay \$32,500 see order for details. (Signed by Judge Nina Gershon, on 7/18/02) , (Guzzi, Roseann) (Entered: 07/25/2002)
07/25/2002	77	FINAL JUDGMENT OF PERMANENT INJUNCTION against Raimond Irni. Defendant shall pay \$200,000. See order for more complete details. (Signed by Judge Nina Gershon, on 7/18/02) , (Guzzi, Roseann) (Entered: 07/25/2002)
07/25/2002	78	FINAL JUDGMENT OF PERMANENT INJUNCTION dated 7/18/02 against Grant R. Curtis. Defendant to pay \$7,819,270. See order for details. (Signed by Judge Nina Gershon, on 7/18/02) , (Guzzi, Roseann) (Entered: 07/25/2002)
08/15/2002	80	MOTION by Securities and Exchange Commission for leave to Take the Deposition of defendant Timothy Masley, a person confined in prison . (Guzzi, Roseann) (Entered: 08/15/2002)
08/15/2002	81	ORDER dated 8/7/02 granting plaintiff's [80-1] motion for leave to Take the Deposition of defendant Timothy Masley, a person confined prison is granted and the Commission make take the videotaped deposition of Masley. (Signed by Magistrate Viktor V. Pohorelsky, on 8/7/02) (Guzzi, Roseann) (Entered: 08/15/2002)
09/03/2002	92	MOTION by Securities and Exchange for a Letter of Request to the Supreme Court of the Bahamas . Motion file stamped: 9/3/02 and mailed/served: 9/3/02. (Guzzi, Roseann) (Entered: 10/21/2002)
09/03/2002	93	MEMORANDUM by Securities and Exchange in support of plaintiff's [92-1] motion for a Letter of Request to the Supreme Court of the Bahamas. (Guzzi, Roseann) (Entered: 10/21/2002)
09/03/2002	94	DECLARATION OF Jack Kaufman, Esq. on behalf of the Securities and Exchange Re: in support of plaintiff's [92-1] motion for a Letter of Request to the Supreme Court of the Bahamas. (Guzzi, Roseann) (Entered: 10/21/2002)
09/10/2002	96	LETTER dated 9/9/02 from Jack Kaufman to Magistrate Pohorelsky on behalf of plaintiff Securities and Exchange as a supplemental response to the 8/26/02 letter of defendant Robert Shatles, which seeks to compel the Commission to produce certain documents withheld on privilege grounds. (Guzzi, Roseann) (Entered: 10/21/2002)
09/18/2002	82	FINAL JUDGMENT of permanent injunction dated 9/13/02 against Kenneth A. Orr. See order for details. (Signed by Judge Nina Gershon, on 9/13/02) , (Guzzi, Roseann) (Entered: 09/18/2002)
09/23/2002	95	MEMORANDUM by Securities and Exchange in support of plaintiff's [92-1] motion for a Letter of Request to the Supreme Court of the Bahamas. (Guzzi, Roseann) (Entered: 10/21/2002)
10/01/2002	91	(Courtesy Copy)MOTION by Securities and Exchange for default judgment against Timothy H. Masley, Phillip J. Milligan, Jonathan D. Lyons . Memorandum in support. Declaration of Linda L. Chan. (Guzzi, Roseann) (Entered: 10/16/2002)
10/03/2002	83	LETTER dated 9/20/02 from Jack Kaufman, Senior Trial Counsel to Judge Gershon on behalf of plaintiff Securities and Exchange Commission seeking leave to amend its complaint to add against defendant Michael Lipkin. (Guzzi, Roseann) (Entered: 10/03/2002)

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SEC058

10/03/2002	84	LETTER dated 9/24/02 from Michael V. Lipkin, Pro Se to Judge Gershon requesting an extension of eighteen months to prepare for trial. (Guzzi, Roseann) (Entered: 10/03/2002)
10/03/2002	85	LETTER dated 9/26/02 from Jack Kaufman to Judge Gershon on behalf of plaintiff Securities and Exchange Commission to respond to the 9/24/02 letter of defendant Michael Lipkin in which he opposes the Commissioner's request to amend complaint. (Guzzi, Roseann) (Entered: 10/03/2002)
10/03/2002	86	LETTER dated 10/1/02 from Judge Gershon to Jack Kaufman, Esq. and Michael V. Lipkin to acknowledge letters. In absence of a stipulation, the Securities and Exchange Commission may bring a formal motion to amend the complaint. (Guzzi, Roseann) (Entered: 10/03/2002)
10/09/2002	87	Calendar entry:Before Mag Pohorelsky Civil Conf. The next conf. before this Mag. Judge is adjourned sine die. The deft. Shainberg shall submit to all parties his proposals for information to be included in the pretrial order no later than Oct. 31,2002. Failure to submit such information will result in the preclusion of evidence that the deft. Shainberg may wish to offer at trial. The parties shall thereafter confer and cooperate in the preparation of a single joint pretrial order for submission to the Mag. Judge by 11/11/02. (Jackson, Ramona) (Entered: 10/10/2002)
10/10/2002	88	ORDER Withdrawn as Moot. On ltr. dtd. 8/26/02 from John E Lawlor we ask an order be issued directing the SEC to turn over the Irni Proffer Notes & Cooperation Agreement believed to exist in Box 21 now in the Commission's possession or control. (signed by Magistrate Viktor V. Pohorelsky ,) (Jackson, Ramona) (Entered: 10/10/2002)
10/10/2002	89	LETTER dated 8/30/02 from Jack Kaufman to Mag Pohorelsky request an enlargement of two weeks, to Sept. 13,2002, to respond to Shatles request for an order compelling production. (Jackson, Ramona) (Entered: 10/10/2002)
10/10/2002	90	LETTER dated 9/4/02 from Joshua Shainberg to Mag Pohorelsky I ask the scheduling order dtd. 7/16/02 be adhered to. (Jackson, Ramona) (Entered: 10/10/2002)
10/21/2002	102	MOTION by plaintiff Securities and Exchange to amend [1-1] complaint . Motion hearing . (Guzzi, Roseann) (Entered: 11/04/2002)
10/21/2002	103	MEMORANDUM by Securities and Exchange in support of plaintiff's [102-1] motion to amend [1-1] complaint. (Guzzi, Roseann) (Entered: 11/04/2002)
10/21/2002	104	DECLARATION of Jack Kaufman on behalf of plaintiff Securities and Exchange Re: in support of plaintiff's [102-1] motion to amend [1-1] complaint. (Guzzi, Roseann) (Entered: 11/04/2002)
10/21/2002	105	Faxed MEMORANDUM by pro-se defendant Michael V. Lipkin in opposition to plaintiff's [102-1] motion to amend [1-1] complaint. (Guzzi, Roseann) (Entered: 11/04/2002)
10/21/2002	107	FIRST AMENDED COMPLAINT by Securities and Exchange Commission, amending [1-1] complaint. (Guzzi, Roseann) (Entered: 11/13/2002)
10/22/2002	101	COVER LETTER dated 10/21/02 from Jack Kaufman to Judge Gershon on behalf of plaintiff Securities and Exchange Commission re: motion to amend the complaint. (Guzzi, Roseann) (Entered: 11/04/2002)
10/23/2002	97	ORDER dated 10/16/02 that plaintiff's motion for entry of a default judgment against defendants Timothy H. Masley, Phillip J. Milligan, and Jonathan D. Lyons is hereby referred to Magistrate Pohorelsky for report and recommendation as to the default judgment. (Signed by Judge Nina Gershon, on 10/16/02) (Guzzi, Roseann) (Entered: 10/23/2002)
10/23/2002		Motion(s) referred: [91-1] motion for default judgment against Timothy H. Masley, Phillip J. Milligan, Jonathan D. Lyons referred to Magistrate Viktor V. Pohorelsky. (Guzzi, Roseann) (Entered: 10/23/2002)
10/24/2002	98	Certificate of Service by Securities and Exchange to Timothy H. Masley, Jonathan D. Lyons & Phillip J. Milligan. served on 10/24/02 re: An Order. (Sica, Michele) (Entered: 10/28/2002)
10/28/2002	106	MAIL RETURNED order dated 10/16/02; returned on 10/28/02; Phillip J. Milligan; 96 Finwood Plaza, Apt. 118; Fort Fee, NJ 07024. Undeliverable. No current address available.

GRAUBARD DECL. EX. 2

SEC059

		(Guzzi, Roseann) Modified on 11/05/2002 (Entered: 11/05/2002)
10/29/2002	99	LETTER dated 10/16/02 from Jack Kaufman, Esq. to Michael V. Lipkin enclosing copies of documents supporting the Commission's motion to amend the complaint, deposition transcripts, and documents in support of motion for default judgment. (enclosures not attached) (Fernandez, Erica) (Entered: 10/29/2002)
11/01/2002	100	ORDER dated 10/18/02 that the Court enters the following scheduling order: 11/8/02 plaintiff shall serve on the defaulting defendants; 12/2/02 defendants shall serve on the plaintiff any opposition; 12/16/02 the plaintiff shall serve any reply papers. (Signed by Magistrate Viktor V. Pohorelsky, on 10/18/02) c/m (Guzzi, Roseann) Modified on 11/05/2002 (Entered: 11/01/2002)
11/13/2002	108	ORDER: Plaintiff's motion to amend the complaint to include allegations of additional securities fraud violations by defendant Michael Lipkin is granted. (signed by Judge Nina Gershon , on 11/08/02) (Sica, Michele) (Entered: 11/13/2002)
11/13/2002	110	NOTICE of attorney appearance for Joshua S. Shainberg by Thomas Jerome Curran. (Guzzi, Roseann) (Entered: 11/20/2002)
11/15/2002	109	AMENDED COMPLAINT by Securities and Exchange Commission, amending [1-1] complaint. (Guzzi, Roseann) (Entered: 11/20/2002)
11/27/2002	111	ANSWER to Complaint by Joshua S. Shainberg. (Guzzi, Roseann) (Entered: 12/04/2002)
12/16/2002	116	MOTION by Securities and Exchange Commission to modify scheduling order to permit the Commission an additional three week period to 1/6/03 to serve and file its reply papers to the opposition of defendant Jonathan D. Lyons . Motion hearing . Motion file stamped: 12/16/02. (Guzzi, Roseann) (Entered: 01/13/2003)
12/16/2002	117	MEMORANDUM by Securities and Exchange Commission in support of plaintiff's [116-1] motion to modify scheduling order to permit the Commission an additional three week period to 1/6/03 to serve and file its reply papers to the opposition of defendant Jonathan D. Lyons (Guzzi, Roseann) (Entered: 01/13/2003)
12/30/2002	112	REVISED SCHEDULING ORDER: Upon the motion of pltf SEC for an Order modifying the Court's Scheduling Order dated 10/18/02, and for good cause shown, the 10/18/02 order is hereby amended to allow the Commission to file no later than 1/6/03 the Commission's reply to the opposition papers filed by dft Jonathan D. Lyons. (signed by Magistrate Viktor V. Pohorelsky, on 12/27/02). (Fahey, Lauren) (Entered: 12/30/2002)
12/30/2002	113	CERTIFICATE OF SERVICE of an Order dtd 12/27/02 served on parties. (Sica, Michele) (Entered: 01/07/2003)
01/06/2003	119	CERTIFICATE OF SERVICE by Securities and Exchange that on 1/6/03 copies of the Commissioner's reply to Jonathan Lyons' opposition to plaintiff's application for default judgment. (Guzzi, Roseann) (Entered: 01/13/2003)
01/07/2003	115	LETTER dated 1/6/03 from Phillip Milligan to Magistrate Pohorelsky opposing the SEC's motion for judgment by default. (Black, Amanda) (Entered: 01/10/2003)
01/08/2003	114	ORDER dated 1/4/03 that the consent motion to extend time to complete discovery is granted, and the parties shall have up to 2/28/03 to complete fact discovery. Parties shall have to 4/25/03 to complete expert discovery. (Signed by Magistrate Robert M. Levy, on 1/4/03) (Guzzi, Roseann) (Entered: 01/08/2003)
01/13/2003	118	NOTICE of attorney appearance for Joshua S. Shainberg by Thomas J. Curran. (Guzzi, Roseann) (Entered: 01/13/2003)
05/07/2003	158	MOTION to Withdraw as Attorney <i>Thomas J. Curran attorney for defendant Joshua Shainberg</i> , by Joshua S. Shainberg. (Guzzi, Roseann) (Entered: 03/04/2005)
06/19/2003	120	ORDER Setting Hearing on Motion re: Joshua Shainberg's motion to withdraw as counsel. Motion Hearing set for 7/9/2003 at 03:00 PM before Magistrate-Judge Viktor V. Pohorelsky. Signed by Judge Viktor V. Pohorelsky on 6/18/03. (Rodriguez, Angela) (Entered: 06/30/2003)
GRAUBARD DECL. EX. 2		SEC060

07/09/2003	121	Minute Entry for proceedings held before Viktor V. Pohorelsky: Motion hearing held on 7/9/2003. (Tape #03/77(0-4350)(1200-2550 is ordered sealed) (Guzzi, Roseann) (Entered: 07/14/2003)
07/30/2003	122	TRANSCRIPT of Civil Cause for Proceedings held on 07/09/03 before Judge Pohorelsky. Appearance for Plaintiff: Jack Kaufman, Esq. & Bohdan Ozaruk, Esq. For Deft. Harold Ruvoldt, Esq., Thomas Curran, Esq. Joshua Shainberg, Pro Se. & Michael Lipkin, Esq. (Sica, Michele) (Entered: 07/30/2003)
10/08/2003	123	Letter dated 10/1/03 from James J. Toritto, Law Clerk to Magistrate Pohorelsky to Jack A. Kaufmann, Esq, Joshua Shainberg, John E. Lawlor, Esq. and Michael Lipkin to inform the Court is in receipt of documents responding to the letter requests sent to the office of the Attorney General and Ministry of Justice, Nassau, Bahamas. See court file for attached letters. (Guzzi, Roseann) (Entered: 10/08/2003)
10/05/2004	124	Letter dated 11/26/02 from Jonathan D. Lyons to Magistrate Pohoreslky.(Guzzi, Roseann) (Entered: 10/05/2004)
10/08/2004	125	Letter dated 10/7/04 from Jack Kaufman to Magisrate Pohorelsky on behalf of plaintiff Securities and Exchange inquires regarding the status of motions. (Guzzi, Roseann) (Entered: 10/20/2004)
10/28/2004	126	REPORT AND RECOMMENDATIONS re [91] Motion for Default Judgment filed by Securities and Exchange Commission. Objections to R&R due by 11/12/2004. Signed by Judge Viktor V. Pohorelsky on 10/28/2004. (Pohorelsky, Viktor) (Entered: 10/28/2004)
10/29/2004	128	CERTIFICATE OF SERVICE that on 10/29/04 copies of report and recommendation by Magistrate Pohorelsky and dated 10/28/04 sent Federal Express to: Masley, Milligan and Lyons. (Guzzi, Roseann) (Entered: 11/01/2004)
11/01/2004	127	MEMORANDUM AND ORDER granting in part and denying in part plaintiff's motion to reopen discovery, denying defendant Shainberg's motion to reopen discovery, and scheduling status conference. Signed by Judge Viktor V. Pohorelsky on 11/01/2004. (Pohorelsky, Viktor) (Entered: 11/01/2004)
11/18/2004	132	Minute Entry for proceedings held before Viktor V. Pohorelsky: Status Conference held on 11/18/2004. (Guzzi, Roseann) (Entered: 12/08/2004)
11/19/2004	129	Letter from Bohdan S. Ozaruk to Judge Nina Gershon Regarding Milligan "Motion To Dismiss". (Attachments: # 1 Service Certificate)(Ozaruk, Bohdan) (Entered: 11/19/2004)
11/30/2004	130	ORDER Setting Hearing on Motion [91] Motion for Default Judgment, 126 REPORT AND RECOMMENDATIONS re [91] Motion for Default Judgment filed by Securities and Exchange Commission: Motion Hearing set for 1/4/2005 02:00 PM before Magistrate-Judge Viktor V. Pohorelsky in Room 519. Signed by Judge Viktor V. Pohorelsky on 11/30/2004. (Pohorelsky, Viktor) (Entered: 11/30/2004)
12/03/2004	131	ORDER dated 11/22/04 re: report and recommendation of Magistrate Pohorelsky. (Signed by Judge Nina Gershon on 11/22/04) (Guzzi, Roseann) (Entered: 12/03/2004)
12/08/2004		Set Deadlines/Hearings: Status Conference set for 3/4/2005 10:30 AM before Magistrate-Judge Viktor V. Pohorelsky. (Guzzi, Roseann) (Entered: 12/08/2004)
12/22/2004	133	First MOTION for Default Judgment as to <i>Timothy Masley and Jonathan Lyons</i> by Securities and Exchange Commission. Responses due by 12/22/2004 (Attachments: # 1 # 2)(Ozaruk, Bohdan) (Entered: 12/22/2004)
12/22/2004	134	First MOTION for Default Judgment as to <i>Timothy Masley and Jonathan Lyons</i> by Securities and Exchange Commission. Responses due by 12/22/2004 (Attachments: # 1 # 2 # 3)(Ozaruk, Bohdan) (Entered: 12/22/2004)
12/22/2004	135	First MOTION for Default Judgment as to <i>Timothy Masley</i> by Securities and Exchange Commission. Responses due by 12/22/2004 (Ozaruk, Bohdan) (Entered: 12/22/2004)
12/22/2004	136	First MOTION for Default Judgment as to <i>Jonathan Lyons</i> by Securities and Exchange Commission. Responses due by 12/22/2004 (Ozaruk, Bohdan) (Entered: 12/22/2004)

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SEC061

12/22/2004	137	First MOTION for Default Judgment as to <i>Timothy Masley and Jonathan Lyons</i> by Securities and Exchange Commission. Responses due by 12/22/2004 (Ozaruk, Bohdan) (Entered: 12/22/2004)
01/03/2005	138	Letter from Bohdan S. Ozaruk to Mag. Judge Pohorelsky Regarding Request for Hearing Adjournment. (Ozaruk, Bohdan) (Entered: 01/03/2005)
01/05/2005	139	Letter from Bohdan S. Ozaruk to Mag. Judge Pohorelsky Regarding Admission of Additional Exhibits. (Attachments: # 1 Exhibit Proposed Exhibit 16)(Ozaruk, Bohdan) (Entered: 01/05/2005)
01/13/2005	140	Mail Returned as Undeliverable Decision & Order Mail sent to Michael V. Lipkin (Jackson, Ramona) (Entered: 01/13/2005)
01/13/2005	141	Letter from Bohdan S. Ozaruk to Mag. Judge Viktor Pohorelsky Regarding M. Lipkin current address. (Ozaruk, Bohdan) (Entered: 01/13/2005)
01/14/2005	142	Letter from Jack Kaufman, Senior Trial Counsel to Honorable Viktor V. Pohorelsky Regarding pending default judgment motion against defendant Phillip Milligan. (Kaufman, Jack) (Entered: 01/14/2005)
01/14/2005		ENDORESED ORDER re 141 Letter: Mr. Lipkin is directed to file a formal statement with the clerk specifying his new address. Entered by Magistrate-Judge Pohorelsky on 1/14/05. (Newton, Joan) (Entered: 01/14/2005)
01/24/2005	143	Minute Entry for proceedings held before Viktor V. Pohorelsky : Motion Hearing held on 1/4/2005 re [91] Motion for Default Judgment filed by Securities and Exchange Commission re Phillip Milligan; hearing to be continued on February 1, 2005. See annexed calendar. (Pohorelsky, Viktor) (Entered: 01/24/2005)
01/25/2005	144	First MOTION for Discovery <i>Modifying The Court's Nov. 1, 2004 Decision and Order to Permit Document Discovery</i> by Securities and Exchange Commission. (Attachments: # 1 Affidavit Declaration in Support of Plaintiff's Motion To Modify Court's Nov. 1, 2004 Decision and Order# 2 Exhibit 1# 3 Exhibit 2# 4 Exhibit 3# 5 Exhibit 4# 6 Exhibit 5# 7 Exhibit 6# 8 Exhibit 7# 9 Exhibit 8# 10 Exhibit 9# 11 Exhibit 10# 12 Exhibit 11# 13 Exhibit 12# 14 Exhibit 13# 15 Supplement Memorandum of Law# 16 Text of Proposed Order Proposed Supplemental Order# 17 Affidavit Certificate of Service)(Ozaruk, Bohdan) (Entered: 01/25/2005)
01/26/2005		Set Deadlines as to 144 First MOTION for Discovery <i>Modifying The Court's Nov. 1, 2004 Decision and Order to Permit Document Discovery</i> . Responses due by 2/1/2005; Replies due by 2/4/2005. (Pohorelsky, Viktor) (Entered: 01/26/2005)
01/31/2005	145	DEFAULT JUDGMENT dated 1/21/05 against Timothy H. Masley. (Signed by Judge Nina Gershon on 1/21/05)(Guzzi, Roseann) (Entered: 02/01/2005)
01/31/2005	146	DEFAULT JUDGMENT against Jonathan D. Lyons. (Signed by Judge Nina Gershon on 1/21/05)(Guzzi, Roseann) (Entered: 02/01/2005)
01/31/2005	147	MOTION to Deny Pltff's Motion to Modify the Court's 11/1/04 Decision and Order to Permit Document Discovery, filed by Joshua S. Shainberg. (w/ Memorandum in Support attached) (Galeano, Sonia) Fwd. to USDJ Gershon. (Entered: 02/01/2005)
02/03/2005	148	TRANSCRIPT of Proceedings held on 1/4/05 before Judge Pohorelsky. Counsel for parties present. Official Transcriber: Rosalie Lombardi; Transcription Service: Transcription Plus II. (Fernandez, Erica) (Entered: 02/04/2005)
02/03/2005	149	TRANSCRIPT of Proceedings held on 2/1/05 before Judge Pohorelsky. Counsel for parties present. Official Transcriber: Rosalie Lombardi; Transcription Service: Transcription Plus II. (Fernandez, Erica) (Entered: 02/04/2005)
02/04/2005	150	REPLY to Response to Motion re 147 MOTION for More Definite Statement <i>to Deny Pltff's Motion to Modify the Court's 11/1/04 Decision and Order to Permit Document Discovery</i> , filed February 4, 2005 filed by Securities and Exchange Commission. (Attachments: # 1 Affidavit Declaration In Support of Reply Memo# 2 Exhibit Reply Exhibit 1# 3 Exhibit Reply Exhibit 2# 4 Affidavit Service Certificate)(Ozaruk, Bohdan) (Entered: 02/04/2005)

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SEC062

02/08/2005	151	Minute Entry for proceedings held before Viktor V. Pohorelsky : Evidentiary Hearing held on 2/1/2005. (Pohorelsky, Viktor) (Entered: 02/08/2005)
02/08/2005	152	REPORT AND RECOMMENDATION AND ORDER read into the record re 131 Order, 130 Order Setting Hearing on Motion, concerning objection (styled as a motion to dismiss dated November 8, 2004) by Phillip Milligan to Report and Recommendation dated October 28, 2004. Entered by Judge Viktor V. Pohorelsky on 2/8/2005. Transcript to be filed; copies to be mailed to parties. (Pohorelsky, Viktor) (Entered: 02/08/2005)
02/08/2005	154	Deft's REPLY MEMORANDUM in Support of its Motion to Deny Pltff's Motion to Modify the Court's 11/1/04 Decision and Order to Permit Document Discovery, filed by Joshua S. Shainberg. (fwd. to USDJ Gershon) (Galeano, Sonia) (Entered: 02/10/2005)
02/09/2005	153	ORDER granting 144 Motion for Discovery. Signed by JudgeViktor V. Pohorelsky on 2/9/2005. (Pohorelsky, Viktor) (Entered: 02/09/2005)
02/09/2005		ORDER denying 147 Motion to Deny Plaintiff's Motion, by electronic endorsement, as this "Motion" was mislabeled by the pro se defendant and is considered by the court instead to be opposition to the plaintiff's motion 144 for an order permitting additional discovery. Signed by Judge Viktor V. Pohorelsky on 2/9/2005. (Pohorelsky, Viktor) (Entered: 02/09/2005)
02/17/2005	155	MOTION to Dismiss by Phillip J. Milligan, Phillip J. Milligan. (Jackson, Ramona) (Entered: 02/17/2005)
02/17/2005	156	TRANSCRIPT of Magistrate Pohorelsky's ORAL Report and Recommendation held on 2/8/05. Transcribed by Rosalie Lombardi of Transcription Plus II. (25 pages) (Guzzi, Roseann) (Entered: 02/17/2005)
02/28/2005	157	Letter dated 2/27/05 from Joshua Shainberg to USMJ Pohorelsky and USDJ Gershon, re: "pltffs continued actions and statements in their attempt to corrupt the process of discovery and repeating petitioner's request to have the Court supervise and referee the deposition of Dr. Moorjani." (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 03/02/2005)
03/04/2005	159	SUPPLEMENTAL DECLARATION of Jack Kaufamn in support of plaintiff's motion for a letter of request to the Supreme Court of the Bahamas on behalf Securities and Exchange Commission. *Note: doc. filed 9/23/02 (Guzzi, Roseann) (Entered: 03/04/2005)
03/04/2005	160	Plaintiff's Reply to defendant Jonathan Lyons' opposition to plaintiff's application for default judgment. *note: document filed 1/6/03 (Guzzi, Roseann) (Entered: 03/04/2005)
03/04/2005	161	Plaintiff's reply to defendant Phillip J. Milligan's opposition to plaintiff's application for default judgment. *Note: document filed 1/24/03(Guzzi, Roseann) (Entered: 03/04/2005)
03/04/2005	162	Minute Entry for proceedings held before Magistrate-Judge Viktor V. Pohorelsky : Status Conference held on 3/4/2005. See annexed conference calendar for details. (Newton, Joan) (Entered: 03/04/2005)
03/04/2005	163	Letter dated 5/10/03 from Joshua Shainberg, pro se defendant to Magistrate Pohorelsky in response to Mr. Thomas J. Curran and his motion to withdraw as counsel. *Note: document filed 6/3/03 (Guzzi, Roseann) (Entered: 03/04/2005)
03/04/2005	164	Declaration of Thomas J. Curran in further support of motion to withdraw as to Joshua S. Shainberg. *Note: document filed 6/16/03 (Guzzi, Roseann) (Entered: 03/04/2005)
03/04/2005	165	Response to Declaration of Thomas J. Curran in further support of motion to withdraw. *Note: document filed 7/8/03 (Guzzi, Roseann) (Entered: 03/04/2005)
03/10/2005	166	OBJECTION to 126 Report and Recommendations filed by Phillip J. Milligan. (Fwd. to USDJ Gershon) (Galeano, Sonia) (Entered: 03/11/2005)
03/25/2005	167	REPLY to Response to Motion re 155 MOTION to Dismiss <i>Commission Opposition to Milligan's Objection to Report and Recommendation</i> filed by Securities and Exchange Commission. (Attachments: # 1)(Ozaruk, Bohdan) (Entered: 03/25/2005)
04/19/2005	168	NOTICE of Change of Address/Firm/Email by Bohdan Stephen Ozaruk (Attachments: # 1) (Ozaruk, Bohdan) (Entered: 04/19/2005)

GRAUBARD DECL. EX. 2

SEC063

04/29/2005	169	TRANSCRIPT of Proceedings/status conference held on 3/4/05 before Judge Magistrate Pohoreslky. Court Reporter: Transcription Plus II by Rosalie Lombardi. (66 pages) (Guzzi, Roseann) (Entered: 04/29/2005)
04/29/2005	170	ORDER dated 4/21/05 that defendant Mr. Milligan is directed to file an answer to the complaint within 30 days of the date of this order. (Ordered by Judge Nina Gershon on 4/21/05)(Guzzi, Roseann) (Entered: 04/29/2005)
05/13/2005	171	Minute Entry for proceedings held before Magistrate Judge Viktor V. Pohorelsky : Status Conference held on 5/12/2005. See annexed conference calendar for details. (Newton, Joan) (Entered: 05/13/2005)
05/19/2005	172	ANSWER to Complaint by defendant Phillip J. Milligan.(Guzzi, Roseann) (Entered: 05/25/2005)
05/26/2005	174	Letter dated 5/24/05 from Phillip Milligan to USDJ Gershon, informing Your Honor that petitioner has not been copied on any relevant documents and nor has he recv'd any disclosures of the evidence the Commission might possess, including automatic disclosures. Petitioner respectfully requests that this Court clarify what kind of discovery process he is entitled to and what scheduling order should petitioner abide by. (Fwd. to USDJ Gershon)(Galeano, Sonia) (Entered: 05/31/2005)
05/26/2005	175	DEFT Milligan's DISCLOSURE STAEMENT filed by Phillip J. Milligan. (fwd. to USDJ Gershon) (Galeano, Sonia) (Entered: 05/31/2005)
05/27/2005	173	ORDER dated 5/26/05 re: separate trial against defendant Philip J. Milligan. Defendants' Michael V. Lipkin, Shainberg and Shatles have consented to trial before Magistrate Pohorelsky. (Ordered by Judge Nina Gershon on 5/26/05)(Guzzi, Roseann) (Entered: 05/27/2005)
06/01/2005	176	CONSENT to Jurisdiction by US Magistrate Judge. Case reassigned to Magistrate Judge Viktor V. Pohorelsky. Judge Gershon no longer assigned. (Guzzi, Roseann) (Entered: 06/01/2005)
06/01/2005	177	Letter from Bohdan S. Ozaruk to Magistrate Judge Pohorelsky Regarding Phillip J. Milligan. (Attachments: # 1)(Ozaruk, Bohdan) (Entered: 06/01/2005)
06/01/2005	178	Exhibit List <i>Plaintiff's Objections to Defendants' Exhibits and Designation of Deposition Testimony</i> by Securities and Exchange Commission.. (Attachments: # 1)(Ozaruk, Bohdan) (Entered: 06/01/2005)
06/02/2005	179	MOTION for Summary Dismissal by Securities and Exchange Commission. (Galeano, Sonia) Fwd. to USMJ Pohorelsky. (Entered: 06/06/2005)
06/02/2005	180	Letter dated 6/2/05 from Joshua Shainberg to USMJ Pohorelsky, enclosing a copy of letter to plttf re: Mr. Shainberg's objections to the request for exhibits to be presented at trial. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 06/06/2005)
06/07/2005	181	Letter dated 6/2/05 from Joshua Shainberg to USMJ Pohorelsky, clarifying petitioner's letters to the SEC of 5/27/05 and to Your Honor of 6/2/05. Petitioner also includes additional exhibits supplied to the SEC. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 06/08/2005)
06/09/2005	182	Exhibit List <i>List of Witnesses and Exhibits 6-9-05</i> by Securities and Exchange Commission.. (Attachments: # 1 Affidavit Declaration of Service)(Ozaruk, Bohdan) (Entered: 06/09/2005)
06/09/2005	183	TRANSCRIPT of Civil Cause for Conference before Mag Pohorelsky held on 5/12/05 before Judge Mag Pohorelsky. Counsel for parties present. Court Transcriber: Aria Transcriptions; Court Transcriber: Aria Transcriptions. (Fernandez, Erica) (Entered: 06/10/2005)
06/16/2005	184	TRIAL BRIEF <i>Pre-Trial Evidentiary Memorandum</i> by Securities and Exchange Commission. (Attachments: # 1 Affidavit Bohdan Ozaruk Declaration# 2 Affidavit Service Certificate) (Ozaruk, Bohdan) (Entered: 06/16/2005)
06/17/2005	185	TRIAL BRIEF <i>Supplemental Declaration</i> by Securities and Exchange Commission. (Attachments: # 1 Affidavit Edward Roberts Declaration# 2 Affidavit Certificate of Service) (Ozaruk, Bohdan) (Entered: 06/17/2005)
06/23/2005	186	Proposed Jury Instructions by Securities and Exchange Commission. (Attachments: # 1)

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SEC064

		(Ozaruk, Bohdan) (Entered: 06/23/2005)
06/29/2005	187	TRANSCRIPT of Pretrial Conference held on 6/23/05 before Judge Pohorelsky. Counsel for parties present. Court Transcriber: Elizabeth Barron; Transcription Co.: Aria Transcriptions. (Fernandez, Erica) (Entered: 06/30/2005)
06/29/2005	188	Letter dated 6/28/05 from Joshua Shainberg to USMJ Pohorelsky, re: several matters related to the last hearing and also referring to objections on exhibits. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 07/06/2005)
07/06/2005	190	Letter dated 7/8/05 from Joshua Sahinberg to USMJ Pohorelsky, informing Your Honor that Mr. Shainberg is unable to locate Mr. William McKay, former President of Securities Planners Inc., indicating that Exhibit #510 requested by plttf should be admitted and wishing to introduce three exhibits, not introduced before. (w/ Exhibits A-D enc.) Fwd. to USMJ Pohorelsky. (Galeano, Sonia) (Entered: 07/11/2005)
07/07/2005	189	Proposed Voir Dire by Securities and Exchange Commission. (Attachments: # 1)(Ozaruk, Bohdan) (Entered: 07/07/2005)
07/11/2005	191	Minute Entry: Civil Cause for Jury Selection and Trial held before Magistrate Viktor V. Pohorelsky on 7/11/2005. Case called. All sides present. Jury selected and sworn. Opening statements given. William Thomas sworn, testifies - direct examination. Trial adjourned until 7/12/05 at 9:15 a.m. (Court Reporter Anthony Mancuso.) (Black, Amanda) (Entered: 07/22/2005)
07/12/2005	192	Minute Entry: Jury Trial held before Magistrate Viktor V. Pohorelsky on 7/12/2005. Case called. All sides present. William Thomas continues testimony - direct & cross examination. Raymon Irni sworn, testifies - direct examination. Trial adjourned until 7/13/05 at 9:15 a.m. (Court Reporter Anthony Mancuso.) (Black, Amanda) (Entered: 07/22/2005)
07/13/2005	193	Minute Entry: Jury Trial held before Magistrate Viktor V. Pohorelsky on 7/13/2005. Case called. All sides present. Raymond Irni continues testimony - direct and cross examination. Video deposition testimony of the following witnesses presented: Pedro Gomes DiBrito, Clifford Haverkamp, Richard Troy, George Kissner, and Peter Savelo. Deposition testimony of Edward D. Roberts read into the record. Trial adjourned until 7/14/05 at 9:15 a.m. (Court Reporter Allan Sherman.) (Black, Amanda) (Entered: 07/22/2005)
07/14/2005	194	Minute Entry: Jury Trial held before Magistrate Viktor V. Pohorelsky on 7/14/2005. Case called. All sides present. Jury trial continues. Deposition testimony of Edward D. Roberts continued to be read into the record. Video deposition testimony of the following witnesses presented: Bindiya Moorjani, Dimitry Pinkenberg, and Leonid Bersudski. Trial adjourned until 7/19 at 9:15 a.m. (Court Reporter Mickey Brymer.) (Black, Amanda) (Entered: 07/22/2005)
07/18/2005	195	Minute Entry: Jury Trial held before Magistrate Viktor V. Pohorelsky on 7/18/2005. Cae called. All sides present. Jury trial continues. Joshua Shainberg sworn, testifies - direct and cross examinaiton. Trial adjourned until 7/18/05 at 9:15 a.m. (Court Reporter Diana Pereira.) (Black, Amanda) (Entered: 07/22/2005)
07/19/2005	196	Minute Entry: Jury Trial held before Magistrate Viktor V. Pohorelsky on 7/19/2005. Case called. All sides present. Jury trial continues. Joshua Shainberg continues testimony - cross, redirect and re-cross examination. Michael Lipkin sworn, testifies - direct, cross, redirect and re-cross examination. Video deposition of Ralph Napletana presented. Trial adjourned until 7/20/05 at 9:15 a.m. (Court Reporter Ronald Tolkin.) (Black, Amanda) (Entered: 07/22/2005)
07/20/2005	197	Minute Entry: Jury Trial held before Magistrate Viktor V. Pohorelsky on 7/20/2005. Case called. All sides present. Jury trial continues. Robert Shatles sworn, testifies - direct, cross, redirect and re-cross examination. Tamara Hall sworn, testifies - direct and cross examination. Plaintiff rests. Defendant Robert Shatles rests. Defendant Michael Lipkin rests. Joshua Shainberg testifies - direct and cross examination. Bins Moorjani sworn, testifies - direct, cross, redirect and re-cross examination. Defendant Joshus Shainberg rests. Trial adjourned until 7/21/05 at 9:00 a.m. (Court Reporter Ronald Tolkin.) (Black, Amanda) (Entered: 07/22/2005)
07/21/2005	207	Minute Entry for proceedings held before Viktor V. Pohorelsky : Jury Trial held on 7/21/2005. Counsel for parties present. Jury Trial continues, Pre-charge conference held. Closing statements, trial adjourned until 7/22/05 at 9:15 AM. (Court Reporter Anthony Mancuso.)

GRAUBARD DECL. EX. 2

SEC065

		(Fernandez, Erica) (Entered: 08/01/2005)
07/22/2005	208	Minute Entry for proceedings held before Viktor V. Pohorelsky: Jury Trial held on 7/22/2005. Counsel for parties present. Jury trial continues. Court charges jury. Jury commences deliberations. Trial adjourned until 7/25 @ 9:15 AM. (Court Reporter Anthony Mancuso.) (Fernandez, Erica) (Entered: 08/01/2005)
07/25/2005	210	Minute Entry for proceedings held before Viktor V. Pohorelsky : Jury Trial held on 7/25/2005. Counsel for parties present. Rulings: Jury trial continues; Jury continues deliberations. Jury returns a verdict in favor of the plaintiff in part, and in part in favor of the defts; Jury excused with the thanks of the Court. Plaintiff to submit authority in support of judgment by 9/9/05; Any opposition by defts Shainberg & Lipkin shall be submitted by 9/23/05; Any reply by the plaintiff shall be submitted by 9/30/05 (Court Reporter Anthony Frisolone.) (Fernandez, Erica) (Entered: 08/01/2005)
07/26/2005	198	TRANSCRIPT of Proceedings held on 7/11/05 before Judge VVP. Court Reporter: Anthony M. Mancuso. Jury Trial. (Clark, Shawn) (Entered: 07/26/2005)
07/26/2005	199	TRANSCRIPT of Proceedings held on 7/12/05 before Judge VVP. Court Reporter: Anthony M. Mancuso. Jury Trial. (Clark, Shawn) (Entered: 07/26/2005)
07/26/2005	200	TRANSCRIPT of Proceedings held on 7/13/05 before Judge VVP. Court Reporter: Allan R. Sherman. Jury Trial. (Clark, Shawn) (Entered: 07/26/2005)
07/26/2005	201	TRANSCRIPT of Proceedings held on 7/14/05 before Judge VVP. Court Reporter: Mickey Brymer. Jury Trial. (Clark, Shawn) (Entered: 07/26/2005)
07/26/2005	202	TRANSCRIPT of Proceedings held on 7/18/05 before Judge VVP. Court Reporter: Diana Pereira. Jury Trial. (Clark, Shawn) (Entered: 07/26/2005)
07/26/2005	203	TRANSCRIPT of Proceedings held on 7/19/05 before Judge VVP. Court Reporter: Ronald E. Tolkin. Jury Trial. (Clark, Shawn) (Entered: 07/26/2005)
07/26/2005	204	TRANSCRIPT of Proceedings held on 7/20/05 before Judge VVP. Court Reporter: Mickey Brymer. Jury Trial. (Clark, Shawn) (Entered: 07/26/2005)
07/26/2005	205	TRANSCRIPT of Proceedings held on 7/21/05 before Judge VVP. Court Reporter: Anthony Mancuso. Jury Trial. (Clark, Shawn) (Entered: 07/26/2005)
07/26/2005	206	TRANSCRIPT of Proceedings held on 7/22/05 before Judge Anthony Mancuso. Court Reporter: Anthony Mancuso. Jury Trial. (Clark, Shawn) (Entered: 07/26/2005)
08/01/2005	209	ORDER OF SUSTENANCE LODGING & TRANSPORTATION: . Ordered by Judge Viktor V. Pohorelsky on 7/22/05. (Fernandez, Erica) (Entered: 08/01/2005)
08/01/2005	211	ORDER OF SUSTENANCE LODGING AND TRANSPORTATION. Ordered by Judge Viktor V. Pohorelsky on 7/25/05. (Fernandez, Erica) (Entered: 08/01/2005)
08/01/2005	212	JURY VERDICT SHEET. (Fernandez, Erica) (Entered: 08/01/2005)
09/08/2005	213	Mail Returned as Undeliverable. Mail sent(default judgment as to Jonathan D. Lyons dated 1/21/05) to Jonathan D. Lyons; returned as undeliverable. (Guzzi, Roseann) (Entered: 09/08/2005)
09/09/2005	214	TRIAL BRIEF <i>Memo of Law in Support of Commission's Request for Post-Trial Relief</i> by Securities and Exchange Commission. (Attachments: # 1 Affidavit Declaration in Support of Plaintiff's Request for Post-Trial Relief# 2 Exhibit 1# 3 Exhibit 102A# 4 Exhibit 702# 5 Exhibit 703# 6 Exhibit 704# 7 Exhibit 705# 8 Exhibit 706# 9 Exhibit 707# 10 Exhibit 708# 11 Exhibit 709# 12 Exhibit 711# 13 Affidavit Certificate of Service)(Ozaruk, Bohdan) (Entered: 09/09/2005)
09/14/2005	215	Letter dated 9/14/05 from Joshua Shainberg to USMJ Pohorelsky, informing Your Honor that Mr. Shainberg did not receive defts response until 9/12/05 by Fed-Ex and requesting a continuance to respond to the judgment recommendation by 10/15/05, be permitted. Mr. Shainberg further informs the Court that he has retained an attorney, Charles Witherwax, who will be available after 9/18/05. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 09/14/2005)

GRAUBARD DECL. EX. 2

SEC066

		09/16/2005)
09/16/2005	216	Letter from Bohdan S. Ozaruk to M.J. Viktor Pohorelsky Regarding Defendant's Request For Extension of Time. (Ozaruk, Bohdan) (Entered: 09/16/2005)
09/20/2005	217	ORDER re 215 Letter, granting extensions of time for opposition and reply papers regarding the plaintiff's request for post-trial relief. Ordered by Judge Viktor V. Pohorelsky on 9/20/2005. (Pohorelsky, Viktor) (Entered: 09/20/2005)
09/26/2005	218	Letter from Bohdan S. Ozaruk to M.J. Pohorelsky Regarding Accompanying Proposed Final Judgment. (Attachments: # 1 Text of Proposed Order Proposed Final Judgment# 2 Affidavit Service Certificate)(Ozaruk, Bohdan) (Entered: 09/26/2005)
10/18/2005	219	ORDER re Appearance of Counsel and other documents submitted by incoming counsel for the defendant Joshua Shainberg. Ordered by Judge Viktor V. Pohorelsky on 10/18/2005. (Pohorelsky, Viktor) (Entered: 10/18/2005)
10/27/2005	220	TRIAL BRIEF <i>Plaintiff's Reply Brief in Support of Post-Trial Relief Request</i> by Securities and Exchange Commission. (Attachments: # 1)(Ozaruk, Bohdan) (Entered: 10/27/2005)
10/27/2005	222	MEMORANDUM in Opposition to Plaintiff's Request for Post-Trial Relief. by Joshua S. Shainberg. (Black, Amanda) (Entered: 11/01/2005)
10/28/2005	221	NOTICE of Appearance by Charles H. Witherwax on behalf of Joshua S. Shainberg (Jackson, Ramona) (Entered: 10/28/2005)
11/02/2005	223	MEMORANDUM in Opposition <i>supplemental</i> by Joshua S. Shainberg. (Witherwax, Charles) (Entered: 11/02/2005)
11/04/2005	224	TRIAL BRIEF <i>Request to Strike Shainberg Supplemental Response</i> by Securities and Exchange Commission. (Attachments: # 1 Exhibit Exhibit to Request to Strike# 2 Affidavit Service Certificate)(Ozaruk, Bohdan) (Entered: 11/04/2005)
01/03/2006	225	First MOTION for Discovery <i>Requesting Waiver of Rule 26(f) Conference</i> by Securities and Exchange Commission. (Attachments: # 1 # 2 # 3)(Ozaruk, Bohdan) (Entered: 01/03/2006)
01/09/2006	226	MEMORANDUM AND ORDER concerning relief to be awarded against the defendants Lipkin and Shainberg. Ordered by Judge Viktor V. Pohorelsky on 1/9/2005. (Pohorelsky, Viktor) (Entered: 01/09/2006)
01/12/2006		ORDER granting 225 Motion for Discovery, by electronic endorsement: the proposed Order which is attachment 2 to the plaintiff's motion and which permits the plaintiff to depose Philip Milligan prior to holding a Rule 26(f) conference is hereby SO ORDERED. Ordered by JudgeViktor V. Pohorelsky on 1/12/2006. (Pohorelsky, Viktor) (Entered: 01/12/2006)
01/12/2006	227	NOTICE of filing the Corrected Decision and Order (Doc. Entry No. 226). (Vaughn, Terry) (Entered: 01/12/2006)
01/13/2006	229	Deft MILLIGAN'S OBJECTIONS to the Commissioner's motion to seek discovery prior to holding a Rule 26(f) conference, filed Phillip J. Milligan. (Fwd. to USDJ Gershon) (Galeano, Sonia) (Entered: 01/19/2006)
01/18/2006	228	RESPONSE in Opposition re 225 First MOTION for Discovery <i>Requesting Waiver of Rule 26 (f) Conference Letter to Judge Pohorelsky dated Jan. 18, 2006</i> filed by Securities and Exchange Commission. (Attachments: # 1 Affidavit Certificate of Service)(Ozaruk, Bohdan) (Entered: 01/18/2006)
01/23/2006	230	ORDER re 229 Memorandum in Opposition filed by Phillip J. Milligan, adhering to original ruling granting leave to conduct the deposition of Milligan. See order. Ordered by Judge Viktor V. Pohorelsky on 1/23/2006. (Pohorelsky, Viktor) (Entered: 01/23/2006)
01/23/2006	231	NOTICE OF APPEAL by Joshua S. Shainberg. Filing fee \$ 255, receipt number 1632432. (Witherwax, Charles) Modified on 1/26/2006 (Gonzalez, Mary). (Entered: 01/23/2006)
01/25/2006	232	NOTICE of Change of address by Charles H. Witherwax (Witherwax, Charles) (Entered: 01/25/2006)
GRAUBARD DECL. EX. 2		SEC067

01/26/2006		Electronic Index to Record on Appeal sent to US Court of Appeals re 132 Status Conference, 211 Order, 223 Memorandum in Opposition, 167 Reply to Response to Motion, 209 Order, 140 Mail Returned, 185 Trial Brief, 181 Letter,, 157 Letter,, 156 Transcript, 182 Exhibit List, 229 Memorandum in Opposition, 126 REPORT AND RECOMMENDATIONS re [91] Motion for Default Judgment filed by Securities and Exchange Commission, 139 Letter, 150 Reply to Response to Motion,, 141 Letter, 222 Memorandum in Opposition, 216 Letter, 146 Default Judgment, 225 First MOTION for Discovery <i>Requesting Waiver of Rule 26(f) Conference</i> , 180 Letter, 218 Letter, 135 First MOTION for Default Judgment as to <i>Timothy Masley</i> , 228 Response in Opposition to Motion,, 133 First MOTION for Default Judgment as to <i>Timothy Masley and Jonathan Lyons</i> , 196 Jury Trial - Held,, 129 Letter, 221 Notice of Appearance, 214 Trial Brief,, 193 Jury Trial - Held,, 188 Letter, 155 MOTION to Dismiss, 136 First MOTION for Default Judgment as to <i>Jonathan Lyons</i> , 124 Letter, 212 Jury Verdict, 207 Jury Trial - Held,, 190 Letter,, 191 Jury Selection,, Jury Trial - Begun,, 137 First MOTION for Default Judgment as to <i>Timothy Masley and Jonathan Lyons</i> , 125 Letter, 145 Default Judgment, 232 NOTICE of Change of Address/Firm/Email, 168 NOTICE of Change of Address/Firm/Email, 127 Memorandum & Opinion,, 131 Order, 231 Notice of Appeal, 186 Proposed Jury Instructions, 151 Evidentiary Hearing, 174 Letter,, 144 First MOTION for Discovery <i>Modifying The Court's Nov. 1, 2004 Decision and Order to Permit Document Discovery</i> , 153 Order on Motion for Discovery, 179 MOTION to Dismiss, 224 Trial Brief, 215 Letter,, 194 Jury Trial - Held,, 177 Letter, 162 Status Conference, 138 Letter, 147 MOTION for More Definite Statement to Deny Pltff's Motion to Modify the Court's 11/1/04 Decision and Order to Permit Document Discovery, filed, 171 Status Conference, 170 Order, 154 Reply in Support, 192 Jury Trial - Held,, 227 Notice (Other), 208 Jury Trial - Held,, 134 First MOTION for Default Judgment as to <i>Timothy Masley and Jonathan Lyons</i> , 226 Memorandum & Opinion, 219 Order, 189 Proposed Voir Dire, 175 Notice (Other), 166 Objection to Report and Recommendations, 230 Order, 152 Order,, 130 Order Setting Hearing on Motion,, 143 Motion Hearing,, 217 Order, 173 Order, 176 Consent to Jurisdiction by US Magistrate Judge, 178 Exhibit List, 197 Jury Trial - Held,, 184 Trial Brief, 128 Certificate of Service, 220 Trial Brief, 172 Answer to Complaint, 195 Jury Trial - Held,, 210 Jury Trial - Held,, For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. (Gonzalez, Mary) (Entered: 01/26/2006)
02/06/2006		SCHEDULING ORDER: Status Conference set for 2/27/2006 11:00 AM before Magistrate-Judge Viktor V. Pohorelsky. See annexed order for details. Ordered by Judge Viktor V. Pohorelsky on 2/6/06. (Newton, Joan) (Entered: 02/06/2006)
02/06/2006	233	SCHEDULING ORDER: Status Conference set for 2/27/2006 11:00 AM before Magistrate-Judge Viktor V. Pohorelsky. See attached order which was omitted from above docket entry dated 2/6/06. Ordered by Judge Viktor V. Pohorelsky on 2/6/06. (Newton, Joan) (Entered: 02/06/2006)
02/07/2006	234	Letter <i>Requesting Pre-Motion Conference</i> by Securities and Exchange Commission. (Attachments: # 1 Affidavit Certificate of Service)(Ozaruk, Bohdan) (Entered: 02/07/2006)
02/22/2006	235	Milligan's REPLY to the Commission's Letters, filed by Phillip Milligan. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 02/27/2006)
02/22/2006	236	Milligan's REQUEST for an Adjournment. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 02/27/2006)
02/24/2006		RESET CONFERENCE: The conference scheduled for 2/27/06 at 11:00 a.m. is adjourned to 3/13/06 at 12:00 p.m. Ordered by Judge Viktor V. Pohorelsky on 2/24/06. (Newton, Joan) (Entered: 02/24/2006)
03/08/2006	237	Letter <i>Response to Milligan's Request for Adjournment</i> by Securities and Exchange Commission. (Attachments: # 1)(Ozaruk, Bohdan) (Entered: 03/08/2006)
03/09/2006	238	ORDER re defendant Milligan's request for adjournment and 237 Letter in opposition filed by Securities and Exchange Commission, denying adjournment but permitting defendant's participation in conference by telephone. Ordered by Judge Viktor V. Pohorelsky on 3/9/2006. (Pohorelsky, Viktor) (Entered: 03/09/2006)
03/09/2006	239	FINAL JUDGMENT as to defendants Michael Lipkin and Joshua Shainberg. (Ordered by Judge Viktor V. Pohorelsky on 1/13/06)(Guzzi, Roseann) (Entered: 03/09/2006)

GRAUBARD DECL. EX. 2

SEC068

03/09/2006		FIRST SUPPLEMENTAL Electronic Index to Record on Appeal sent to US Court of Appeals re 235 Notice (Other), 233 Scheduling Order, 239 Judgment, 236 Notice (Other), 237 Letter, 238 Order, For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. (Gonzalez, Mary) (Entered: 03/09/2006)
03/10/2006	240	NOTICE OF APPEAL as to 239 Judgment by Michael V. Lipkin. Filing fee \$ 255, receipt number 322342. NOA served electronically. (Gonzalez, Mary) (Entered: 03/10/2006)
03/10/2006		Electronic Index to Record on Appeal sent to US Court of Appeals re 132 Status Conference, 167 Reply to Response to Motion, 209 Order, 140 Mail Returned, 181 Letter,, 156 Transcript, 229 Memorandum in Opposition, 126 REPORT AND RECOMMENDATIONS re [91] Motion for Default Judgment filed by Securities and Exchange Commission, 139 Letter, 141 Letter, 222 Memorandum in Opposition, 225 First MOTION for Discovery <i>Requesting Waiver of Rule 26(f) Conference</i> , 218 Letter, 135 First MOTION for Default Judgment as to <i>Timothy Masley</i> , 228 Response in Opposition to Motion,, 133 First MOTION for Default Judgment as to <i>Timothy Masley and Jonathan Lyons</i> , 212 Jury Verdict, 207 Jury Trial - Held,, 191 Jury Selection,, Jury Trial - Begun,, 137 First MOTION for Default Judgment as to <i>Timothy Masley and Jonathan Lyons</i> , 125 Letter, 145 Default Judgment, 231 Notice of Appeal, 151 Evidentiary Hearing, 174 Letter,, 142 Letter, 144 First MOTION for Discovery <i>Modifying The Court's Nov. 1, 2004 Decision and Order to Permit Document Discovery</i> , 179 MOTION to Dismiss, 224 Trial Brief, 194 Jury Trial - Held,, 177 Letter, 162 Status Conference, 171 Status Conference, 154 Reply in Support, 227 Notice (Other), 219 Order, 189 Proposed Voir Dire, 175 Notice (Other), 166 Objection to Report and Recommendations, 152 Order,, 130 Order Setting Hearing on Motion,, 143 Motion Hearing,, 217 Order, 121 Status Conference, 173 Order, 128 Certificate of Service, 172 Answer to Complaint, 211 Order, 223 Memorandum in Opposition, 185 Trial Brief, 234 Letter, 157 Letter,, 182 Exhibit List, 150 Reply to Response to Motion,, 146 Default Judgment, 216 Letter, 180 Letter, 239 Judgment, 236 Notice (Other), 196 Jury Trial - Held,, 129 Letter, 193 Jury Trial - Held,, 214 Trial Brief,, 221 Notice of Appearance, 136 First MOTION for Default Judgment as to <i>Jonathan Lyons</i> , 155 MOTION to Dismiss, 188 Letter, 124 Letter, 190 Letter,, 238 Order,, 127 Memorandum & Opinion,, 168 NOTICE of Change of Address/Firm/Email, 131 Order, 186 Proposed Jury Instructions, 153 Order on Motion for Discovery, 215 Letter,, 147 MOTION for More Definite Statement to <i>Deny Pltff's Motion to Modify the Court's 11/1/04 Decision and Order to Permit Document Discovery</i> , filed, 138 Letter, 235 Notice (Other), 170 Order, 240 Notice of Appeal, 192 Jury Trial - Held,, 134 First MOTION for Default Judgment as to <i>Timothy Masley and Jonathan Lyons</i> , 208 Jury Trial - Held,, 226 Memorandum & Opinion, 230 Order, 176 Consent to Jurisdiction by US Magistrate Judge, 178 Exhibit List, 197 Jury Trial - Held,, 237 Letter, 184 Trial Brief, 220 Trial Brief, 195 Jury Trial - Held,, 210 Jury Trial - Held,, For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. (Gonzalez, Mary) (Entered: 03/10/2006)
03/10/2006	242	DEFT Milligan's LETTER TO THE COURT, opposing plttf's assertion that the matter of this case against plttf may be decided by summary judgment. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 03/13/2006)
03/13/2006	241	Minute Entry for proceedings held before Magistrate Judge Viktor V. Pohorelsky : Status Conference held on 3/13/2006. See annexed conference calendar for details (Newton, Joan) (Entered: 03/13/2006)
04/05/2006	243	ORDER re 234 Letter filed by Securities and Exchange Commission,, 242 Affidavit in Opposition filed by Phillip J. Milligan.Plaintiff SEC may make a summary judgment motion according to the following schedule: Plaintiff shall serve its motion on or before June 5, 2006. Defendant will serve his opposition on or before June 19, 2006. Plaintiff will serve its reply in further support of its motion on or before July 3, 2006. (Signed by Judge Nina Gershon on 03/31/06.) (Coward, Nicole) (Entered: 04/05/2006)
04/19/2006	244	TRANSCRIPT of Civil Cause for Status Conference held on 3/13/06 before Judge Viktor V. Pohorelsky. Court Reporter: Fiore Transcription Service. (Black, Amanda) (Entered: 04/19/2006)
05/10/2006	245	First MOTION for Discovery <i>Request for Sanctions Against defendant Phillip Milligan</i> by Securities and Exchange Commission. (Ozaruk, Bohdan) (Entered: 05/10/2006)
GRAUBARD DECL. EX. 2		SEC069

05/11/2006	246	MILLIGAN'S OPPOSITION TO THE SEC'S May 9th LETTER, filed by Phillip J. Milligan. (Fwd. to USDJ Gershon)(Galeano, Sonia) (Entered: 05/16/2006)
05/19/2006	247	Minute Entry for proceedings held before Magistrate Judge Viktor V. Pohorelsky : Status Conference held on 5/19/2006. see annexed conference calendar for details. (Newton, Joan) (Entered: 05/19/2006)
05/26/2006	248	MILLIGAN'S REQUEST TO REOPEN DISCOVERY, filed by Phillip J. Milligan. (fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 06/02/2006)
06/02/2006	249	RESPONSE to Discovery Request from Phillip Milligan by Securities and Exchange Commission.(Ozaruk, Bohdan) (Entered: 06/02/2006)
06/09/2006	250	ORDER re 248 Notice (Other) filed by Phillip J. Milligan, 249 Response to Discovery filed by Securities and Exchange Commission, denying request to reopen discovery. Ordered by Judge Viktor V. Pohorelsky on 6/9/2006. (Pohorelsky, Viktor) (Entered: 06/09/2006)
06/20/2006		ORDER, upon the defendant Milligan's application and with the consent of the plaintiff, the deadline for the defendant's opposition to the plaintiff's summary judgment motion is hereby extended by two days to June 21, 2006. Ordered by Judge Viktor V. Pohorelsky on 6/20/2006. (Pohorelsky, Viktor) (Entered: 06/20/2006)
06/30/2006	251	MOTION for Summary Judgment by Securities and Exchange Commission. Responses due by 6/21/2006 (Attachments: # 1 # 2 # 3 Memorandum of Law# 4 Affidavit # 5 Exhibit 1# 6 Exhibit 2# 7 Exhibit 2a# 8 Exhibit 3# 9 Exhibit 4# 10 Exhibit 5# 11 Exhibit 6# 12 Exhibit 6a# 13 Exhibit 6b# 14 Exhibit 6b# 15 Exhibit 7# 16 Exhibit 7a# 17 Exhibit 8# 18 Exhibit 9# 19 Affidavit Certificate of Service)(Ozaruk, Bohdan) (Entered: 06/30/2006)
06/30/2006	252	MOTION for Summary Judgment <i>Papers in Opposition to Summary Judgment</i> by Phillip J. Milligan. Responses due by 7/3/2006 (Attachments: # 1 Statement of Material Facts# 2 Letter from Milligan to Court 6-19-06# 3 Memorandum of Law in Opposition to Summary Judgment# 4 Affidavit Declaration)(Ozaruk, Bohdan) (Entered: 06/30/2006)
06/30/2006	253	REPLY to Response to Motion re 252 MOTION for Summary Judgment <i>Papers in Opposition to Summary Judgment</i> filed by Securities and Exchange Commission. (Attachments: # 1 Affidavit Certificate of Service)(Ozaruk, Bohdan) (Entered: 06/30/2006)
06/30/2006		Motions terminated, docketed incorrectly 252 MOTION for Summary Judgment <i>Papers in Opposition to Summary Judgment</i> filed by Phillip J. Milligan,. **This is not a motion; opposition documents. (Guzzi, Roseann) (Entered: 09/26/2006)
07/05/2006	262	NOTICE of service of defendant's opposition to plaintiffs motion for summary judgment by pro- se defendant Phillip J. Milligan, dated 6/21/06. (Guzzi, Roseann) (Entered: 07/13/2006)
07/07/2006	254	Minute Entry for proceedings held before Magistrate Judge Viktor V. Pohorelsky : Telephone Conference held on 7/7/2006. See annexed conference calendar. (Newton, Joan) (Entered: 07/07/2006)
07/07/2006	255	DEFT MILLIGAN'S MOTION for Leave to File a Surreply in Opposition to Pltff's Motion for Summary Judgment against Milligan. (Galeano, Sonia) Fwd. to USMJ Pohorelsky. (Entered: 07/10/2006)
07/07/2006	256	DEFT MILLIGAN'S SURREPLY in Support of Deft's Opposition to Pltff's Motion for Summary Judgment against Milligan. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 07/10/2006)
07/07/2006	257	NOTICE OF SERVICE of the Opposition to Motion for Summary Judgment, filed by Phillip J. Milligan. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 07/10/2006)
07/07/2006	258	DECLARATION in Support of Deft Milligan's Opposition to Pltff SEC's Motion for Summary Judgment, filed by Phillip J. Milligan. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 07/10/2006)
07/07/2006	259	RULE 56.1 STATEMENT OF MATERIALS FACTS in Support of His Opposition to Pltff SEC's Motion for Summary Judgment, filed by Phillip J. Milligan. (fwd. to USMJ Pohorelsy) (Galeano, Sonia) (Entered: 07/10/2006)

GRAUBARD DECL. EX. 2

SEC070

07/07/2006	260	DEFT MILLIGAN'S MEMORANDUM OF POINTS AND AUTHORITIES in Support of Deft Milligan's Opposition to Pltff SEC's Motion for Summary Judgment against Deft Milligan. (w/ Exhibits attached) (fwd. to USMJ Pohorelsky)(Galeano, Sonia) (Entered: 07/10/2006)
07/10/2006	261	RESPONSE to Motion re 255 MOTION for Leave to File a <i>Surreply in Opposition to Pltff's Motion for Summary Judgment against Milligan, filed July 10, 2006</i> filed by Securities and Exchange Commission. (Attachments: # 1)(Ozaruk, Bohdan) (Entered: 07/10/2006)
09/26/2006	263	ORDER REFERRING MOTION: 251 MOTION for Summary Judgment filed by Securities and Exchange Commission is hereby referred to Magistrate Pohorelsky for report and recommendation. (Ordered by Judge Nina Gershon on 9/25/06)(Guzzi, Roseann) (Entered: 09/26/2006)
11/22/2006	264	NOTICE of Appearance by John J. Graubard on behalf of Securities and Exchange Commission (Graubard, John) (Entered: 11/22/2006)
01/18/2007	265	NOTICE by Securities and Exchange Commission <i>Restraining Notice CPLR 5222 to Morgan Stanley DW Inc.</i> (Graubard, John) (Entered: 01/18/2007)
01/18/2007	266	NOTICE by Securities and Exchange Commission <i>Restraining Notice CPLR 5222 to Laryssa Shainberg</i> (Graubard, John) (Entered: 01/18/2007)
01/18/2007	267	NOTICE by Securities and Exchange Commission <i>CPLR 5222 Notice to Judgment Debtor Joshua S. Shainberg</i> (Graubard, John) (Entered: 01/18/2007)
05/04/2007	268	Letter MOTION to Compel <i>Deposition of Laryssa Shainberg</i> by Securities and Exchange Commission. (Attachments: # 1 Exhibit Exhibits to Letter Motion to Compel Deposition of Laryssa Shainberg) (Graubard, John) (Entered: 05/04/2007)
05/07/2007	269	ORDER TO SHOW CAUSE re Laryssa Shainberg. Show Cause Hearing set for 5/11/2007 11:00 AM in 13A South before Magistrate-Judge Viktor V. Pohorelsky. Ordered by Judge Viktor V. Pohorelsky on 5/7/2007. (Pohorelsky, Viktor) (Entered: 05/07/2007)
05/09/2007	270	AFFIDAVIT/AFFIRMATION re 269 Order to Show Cause <i>Certification of Service on Laryssa Shainberg</i> by Securities and Exchange Commission (Graubard, John) (Entered: 05/09/2007)
05/10/2007	271	STIPULATION re 268 Letter MOTION to Compel <i>Deposition of Laryssa Shainberg</i> , 269 Order to Show Cause <i>Stipulation Setting Date of Deposition of Laryssa Shainberg</i> by Securities and Exchange Commission (Graubard, John) (Entered: 05/10/2007)
05/10/2007		STIPULATION AND ORDER: The Stipulation (docket entry 271) is hereby So Ordered. In view of the stipulation, the hearing scheduled by the Order to Show Cause (docket entry 269) is unnecessary and it is hereby canceled. The plaintiff shall insure that the witness and other affected parties are aware of the cancellation of the hearing. Ordered by Judge Viktor V. Pohorelsky on 5/10/2007. (Pohorelsky, Viktor) (Entered: 05/10/2007)
06/05/2007	272	REPORT AND RECOMMENDATIONS re 251 MOTION for Summary Judgment filed by Securities and Exchange Commission: the motion should be granted. Objections to R&R due by 6/25/2007. Ordered by Judge Viktor V. Pohorelsky on 6/5/2007. (Pohorelsky, Viktor) (Entered: 06/05/2007)
06/06/2007	273	CERTIFICATE of Counsel <i>Service of Report and Recommendation on defendant Phillip J. Milligan</i> by Bohdan Stephen Ozaruk on behalf of Securities and Exchange Commission (Ozaruk, Bohdan) (Entered: 06/06/2007)
06/19/2007	274	DEFT Milligan's OBJECTIONS to 272 Report and Recommendations. (Fwd. to USMJ Pohorelsky) (Galeano, Sonia) (Entered: 06/20/2007)
07/03/2007	275	RESPONSE in Support re 272 REPORT AND RECOMMENDATIONS re 251 MOTION for Summary Judgment filed by Securities and Exchange Commission <i>Response to Defendant Milligan's Opposition to Report and Recommendation</i> filed by Securities and Exchange Commission. (Ozaruk, Bohdan) (Entered: 07/03/2007)
07/03/2007	276	MOTION for Summary Judgment <i>Certificate of Service-Response to Defendant Milligan's Opposition to Report and Recommendation</i> by Securities and Exchange Commission.Responses due by 7/5/2007 (Ozaruk, Bohdan) (Entered: 07/03/2007)

GRAUBARD DECL. EX. 2

SEC071

07/16/2007	277	DEFT Milligan's OBJECTION to the SEC's 275 Response. (Fwd. to USDJ Gershon) (Galeano, Sonia) (Entered: 07/17/2007)
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Transaction Receipt			
09/06/2007 14:02:36			
PACER Login:	jjg0264	Client Code:	
Description:	Docket Report	Search Criteria:	1:99-cv-07357-VVP
Billable Pages:	19	Cost:	1.52

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MICHAEL LIPKIN, et al.,

Defendants.

99 Civ. 7357 (NG) (VVP)

**FINAL JUDGMENT AS TO DEFENDANTS
MICHAEL LIPKIN AND JOSHUA SHAINBERG**

The United States Securities and Exchange Commission ("Commission"), having filed an Amended Complaint on November 15, 2002, and defendants Michael Lipkin and Joshua Shainberg (collectively "Defendants") having answered the Amended Complaint; a jury trial having been held in this matter; and the jury having found unanimously that:

- Defendant Lipkin knowingly participated in a scheme to defraud investors, which involved the receipt of undisclosed payment in exchange for recommending Alter Sales Inc. ("Alter Sales") stock to investors;
- defendant Shainberg knowingly participated in a scheme to defraud investors, which involved the receipt of undisclosed payment in exchange for recommending Alter Sales stock to investors;
- defendant Lipkin knowingly participated in a scheme to defraud investors in connection with Alter Sales stock, and that he knew or recklessly disregarded that Alter Sales stock was not a sound investment;

- defendant Lipkin knew that brokers under his supervision were making false and misleading statements to customers to the effect that Alter Sales stock was a good or sound investment, and he participated in the brokers' false statements to their customers either by encouraging or instructing them to make such statements or in some other manner; and
- that those false statements were material,

the Court finds that Defendants' conduct constitutes violations of Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], and Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)], and accordingly:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants are jointly and severally liable for disgorgement of \$277,382.45, representing unjust enrichment as a result of the conduct alleged in the Complaint, together with prejudgment interest in the amount of \$300,277.36, for a total of \$577,659.81. The Commission may enforce the Court's

judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after ten days following entry of this Final Judgment. In response to any such civil contempt motion by the Commission, Defendants may assert any legally permissible defense. Defendants shall satisfy their obligation by paying \$577,659.81 within ten business days to the Clerk of this Court, together with a cover letter identifying Michael Lipkin and Joshua Shainberg as defendants in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendants shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendants relinquish all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendants. The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS") or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States. The Commission, in its discretion, may propose a plan to distribute the Fund subject to the Court's approval, or may send the Fund to the U.S. Treasury. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendant Shainberg shall pay a civil penalty in the amount of \$200,000 pursuant to 15 U.S.C. §§ 77t(d) and 78u(d)(3). Defendant Shainberg shall make this payment within ten (10) business days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Joshua Shainberg as defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendant Lipkin shall pay a civil penalty in the amount of \$200,000 pursuant to 15 U.S.C. §§ 77t(d) and 78u(d)(3). Lipkin shall make this payment within ten (10) business days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Michael Lipkin as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made

pursuant to this Final Judgment. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated:

January 13, 2006

/s/

UNITED STATES MAGISTRATE JUDGE

Joshua Shainberg

February 27, 2007

Page 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES and EXCHANGE COMMISSION,

Plaintiff,

99 Civ. 7357

-against-

MICHAEL LIPKIN, et al.,

Defendants.

Tuesday, February 27, 2007
10:47 a.m.

Deposition of JOSHUA SHAINBERG, taken by Plaintiff,
pursuant to Notice, held at the offices of
Securities and Exchange Commission, Three World
Financial Center, New York, New York, before Lisa
Rosenfeld, a Shorthand Reporter and Notary Public
within and for the State of New York.

Joshua Shainberg

February 27, 2007

Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 SECURITIES AND EXCHANGE COMMISSION</p> <p>4 Three World Financial Center</p> <p>5 New York, New York 10281</p> <p>6 By: JOHN GRAUBARD, ESQ.</p> <p>7 BOHDAN S. OZARUK, ESQ.</p> <p>8</p> <p>9 CHARLES H. WITHERWAX, ESQ.</p> <p>10 Attorney for Defendant Joshua Shainberg</p> <p>11 104-60 Queens Boulevard</p> <p>12 Suite 21J</p> <p>13 Forest Hills, New York 11375</p> <p>14</p> <p>15 oOo</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Shainberg</p> <p>2 deposition, any defects in the notice are</p> <p>3 waived. Any requirement that you provide</p> <p>4 proof of your qualifications is waived. Is</p> <p>5 that correct, Mr. Witherwax? 10:49</p> <p>6 MR. WITHERWAX: That's correct.</p> <p>7 MR. GRAUBARD: With respect to the</p> <p>8 questions, any objection except as to either</p> <p>9 privilege or the form of the question will be</p> <p>10 reserved and does not have to be asked. 10:49</p> <p>11 Objections as to privilege and as to the form</p> <p>12 of the question are waived, if they are not</p> <p>13 asserted in the proper manner. With the</p> <p>14 understanding, and I always put this in, it's</p> <p>15 to the extent that the rules of the Federal 10:49</p> <p>16 Court for the Eastern District provide, to</p> <p>17 the extent there is any type of inadvertent</p> <p>18 waiver, those rules will govern. In other</p> <p>19 words there are certain rules that allow a</p> <p>20 privilege to be asserted at a later time. 10:49</p> <p>21 MR. WITHERWAX: Yes.</p> <p>22 MR. GRAUBARD: So the court rules will</p> <p>23 govern on that. It's also stipulated to the</p> <p>24 extent that the question seeks information</p> <p>25 that is required under the Federal Rules or 10:50</p>
Page 3	Page 5
<p>1 Shainberg</p> <p>2 JOSHUA SHAINBERG,</p> <p>3 having been first duly sworn by Lisa Rosenfeld, a</p> <p>4 Notary Public for the State of New York, was</p> <p>5 examined and testified as follows:</p> <p>6 EXAMINATION BY MR. GRAUBARD:</p> <p>7 Q. Would you please state your full name</p> <p>8 for the record and then spell it.</p> <p>9 A. Joshua Shainberg, Joshua Shainberg,</p> <p>10 J-o-s-h-u-a, S-h-a-i-n-b-e-r-g. 10:48</p> <p>11 Q. What is your address, Mr. Shainberg?</p> <p>12 A. 385 Grand Street, New York, New York,</p> <p>13 10002.</p> <p>14 Q. Are you represented by an attorney?</p> <p>15 A. Yes. 10:48</p> <p>16 MR. GRAUBARD: Will counsel please</p> <p>17 identify himself for the record.</p> <p>18 MR. WITHERWAX: Yes. My name is Charles</p> <p>19 Witherwax, I'm attorney for Mr. Shainberg.</p> <p>20 MR. GRAUBARD: Before commencing with 10:48</p> <p>21 the questioning, Mr. Witherwax and I have</p> <p>22 agreed on certain stipulations. First a copy</p> <p>23 of the transcript will be provided to the</p> <p>24 witness to read and to sign.</p> <p>25 Second, for the purpose of the 10:48</p>	<p>1 Shainberg</p> <p>2 the rules of the Eastern District to be</p> <p>3 treated confidentially. The question will be</p> <p>4 answered but in the transcript or in the</p> <p>5 exhibit as is filed with the court as it 10:50</p> <p>6 becomes necessary, the information will be</p> <p>7 redacted.</p> <p>8 The information that will be redacted in</p> <p>9 general is as follows: For Social Security</p> <p>10 numbers and any accounts at financial 10:50</p> <p>11 institutions, only the last four digits will</p> <p>12 be shown in such filings. The date of birth</p> <p>13 will be reduced to the month and the year.</p> <p>14 If any minor children are involved, they</p> <p>15 will be shown only by their initials. Any 10:50</p> <p>16 residence addresses will be shown only by</p> <p>17 city and state. So that will be the</p> <p>18 redactions that are made, and if there are</p> <p>19 others requested we will put them on the</p> <p>20 record. 10:51</p> <p>21 Is that agreed, Mr. Witherwax?</p> <p>22 MR. WITHERWAX: Yes, that's agreed. I</p> <p>23 have a remark for the record before we start.</p> <p>24 We wish to object to this deposition on the</p> <p>25 grounds that it's premature. As you both 10:51</p>

Joshua Shainberg

February 27, 2007

<p style="text-align: right;">Page 10</p> <p>1 Shainberg</p> <p>2 A. Laryssa Shainberg.</p> <p>3 Q. And again subject to redaction, we</p> <p>4 discussed you have three children, are they under</p> <p>5 the age of 18? 10:57</p> <p>6 A. Yes.</p> <p>7 Q. Could you give me the name of the oldest</p> <p>8 child? REDACTED</p> <p>9 A. REDACTED</p> <p>10 Q. How old is he? 10:57</p> <p>11 A. REDACTED</p> <p>12 Q. The second child?</p> <p>13 A. REDACTED</p> <p>14 Q. How old?</p> <p>15 A. REDACTED 10:57</p> <p>16 Q. And the youngest?</p> <p>17 A. REDACTED</p> <p>18 Q. How old?</p> <p>19 A. REDACTED</p> <p>20 Q. Does anyone else live in that apartment 10:57</p> <p>21 with you?</p> <p>22 A. No.</p> <p>23 Q. I'm going to come back to the apartment.</p> <p>24 Are you presently employed?</p> <p>25 A. No, I am not. 10:57</p>	<p style="text-align: right;">Page 12</p> <p>1 Shainberg</p> <p>2 Q. So as far as you're aware of these are</p> <p>3 just oral agreements?</p> <p>4 A. Correct.</p> <p>5 Q. And are these loans made to you, to your 10:59</p> <p>6 wife or to both?</p> <p>7 A. To my wife predominantly as far as I'm</p> <p>8 aware.</p> <p>9 Q. So they're from relatives, are they your</p> <p>10 relatives or her relatives? 10:59</p> <p>11 A. Both, I believe.</p> <p>12 Q. Approximately how much in total are</p> <p>13 these loans?</p> <p>14 A. I don't know.</p> <p>15 MR. WITHERWAX: If you know. 10:59</p> <p>16 A. I don't know.</p> <p>17 Q. Again let me say, and I'm sure your</p> <p>18 attorney will say it too, what I do want not you to</p> <p>19 be doing is guessing at the answers.</p> <p>20 A. I don't know. 10:59</p> <p>21 Q. Would you say it's more than \$10,000?</p> <p>22 A. Yes.</p> <p>23 Q. In the past year, how much money did you</p> <p>24 receive by way of loans?</p> <p>25 A. I'm not aware of the exact amount. 10:59</p>
<p style="text-align: right;">Page 11</p> <p>1 Shainberg</p> <p>2 Q. When was the last time you were</p> <p>3 employed?</p> <p>4 A. 1996.</p> <p>5 Q. Who were you employed by then? 10:58</p> <p>6 A. Securities Planners.</p> <p>7 Q. What did you do at Securities Planners?</p> <p>8 A. I was a stockbroker and assistant in</p> <p>9 compliance matters.</p> <p>10 Q. And what have you done since 1996? 10:58</p> <p>11 A. Effectively I've been unemployed since</p> <p>12 then.</p> <p>13 Q. Have you engaged in any type of work for</p> <p>14 which you have received compensation?</p> <p>15 A. No, I have not. 10:58</p> <p>16 Q. Is your wife employed?</p> <p>17 A. No.</p> <p>18 Q. I'm going to ask the obvious question</p> <p>19 now, which is what do you, your wife and your three</p> <p>20 children live on? 10:58</p> <p>21 A. Yes. Loans from relatives and sales of</p> <p>22 some assets that my wife owned.</p> <p>23 Q. And you say loans from relatives, are</p> <p>24 these loans evidenced by promissory notes?</p> <p>25 A. No, not that I'm aware of. 10:59</p>	<p style="text-align: right;">Page 13</p> <p>1 Shainberg</p> <p>2 You'd have to speak to my wife.</p> <p>3 Q. In your family who keeps track of the</p> <p>4 finances, yourself, your wife or both?</p> <p>5 A. My wife predominantly. 11:00</p> <p>6 Q. You said also sale of her assets?</p> <p>7 A. Yes.</p> <p>8 Q. In general what type of assets are we</p> <p>9 talking about?</p> <p>10 A. She had some art assets and some other 11:00</p> <p>11 collectibles.</p> <p>12 Q. How were these being sold?</p> <p>13 A. She's selling them.</p> <p>14 Q. Is she selling them through a dealer?</p> <p>15 A. I have no idea. 11:00</p> <p>16 Q. She would know that?</p> <p>17 A. Correct.</p> <p>18 Q. Have you made any efforts to obtain</p> <p>19 employment on your part?</p> <p>20 A. I have. 11:00</p> <p>21 Q. What type of employment have you sought?</p> <p>22 A. Well, I have not sought any reentry into</p> <p>23 the securities industry, although many years ago I</p> <p>24 attempted to do so but due to the obvious</p> <p>25 circumstances I was not employable and don't think I 11:00</p>

Joshua Shainberg

February 27, 2007

<p style="text-align: right;">Page 14</p> <p>1 Shainberg</p> <p>2 will be in the near future. Irrespective of the</p> <p>3 outcome, but I attempted to seek employment in other</p> <p>4 industries with the obvious background checks which</p> <p>5 affected my not getting such employment. 11:01</p> <p>6 Q. This action in which the judgment was</p> <p>7 rendered was brought against you in 1999, correct?</p> <p>8 A. Correct.</p> <p>9 MR. WITHERWAX: Excuse me, the form of</p> <p>10 the question. 11:01</p> <p>11 MR. GRAUBARD: All right.</p> <p>12 MR. WITHERWAX: You said the judgment</p> <p>13 was brought against you in 1999.</p> <p>14 MR. GRAUBARD: No, the action.</p> <p>15 Q. The action in which the judgment was 11:01</p> <p>16 rendered was brought in 1999?</p> <p>17 A. The complaint was, yeah, I guess.</p> <p>18 Q. According to item 24 on the court</p> <p>19 docket, you received service of the summons and</p> <p>20 complaint on December 2, 1999. I'm not going to ask 11:02</p> <p>21 you for the exact date but would that be</p> <p>22 approximately correct?</p> <p>23 A. It sounds correct.</p> <p>24 Q. And you predominantly represented</p> <p>25 yourself in this action? 11:02</p>	<p style="text-align: right;">Page 16</p> <p style="text-align: center; color: gray; font-size: 2em;">REDACTED</p> <p>1 Shainberg</p> <p>2 Q. How long have you lived at 385 Grand</p> <p>3 Street?</p> <p>4 A. My entire life.</p> <p>5 Q. Did you ever live at [REDACTED] 11:03</p> <p>6 Great Neck?</p> <p>7 A. I had an apartment there many years ago,</p> <p>8 yes.</p> <p>9 Q. So how would you reconcile living at 385</p> <p>10 Grand Street your entire life and having an 11:04</p> <p>11 apartment somewhere else?</p> <p>12 A. I believe I rented that apartment after</p> <p>13 purchasing it and subsequently selling it.</p> <p>14 Q. What years were you at that apartment?</p> <p>15 A. Many years ago, I don't recall, over ten 11:04</p> <p>16 years ago.</p> <p>17 Q. What about the address of [REDACTED]</p> <p>18 [REDACTED], New York, did you ever live there?</p> <p>19 A. I don't recall that address.</p> <p>20 Q. Did you ever live or have a place of 11:04</p> <p>21 business at [REDACTED]?</p> <p>22 A. I don't recall that address either.</p> <p>23 Q. Do you recall an address of [REDACTED]</p> <p>24 [REDACTED] Great Neck, New York?</p> <p>25 A. [REDACTED] what? 11:04</p>
<p style="text-align: right;">Page 15</p> <p>1 Shainberg</p> <p>2 A. I represented myself pro se.</p> <p>3 Q. I'm going to ask some other questions</p> <p>4 and from a predominantly background, where and when</p> <p>5 were you born? 11:02</p> <p>6 A. I was born in Manhattan, New York City,</p> <p>7 on April [REDACTED], 1956.</p> <p>8 Q. What is your educational background?</p> <p>9 A. I attended university at Brooklyn</p> <p>10 College and I attended theological university as 11:02</p> <p>11 well.</p> <p>12 Q. Brooklyn College did you graduate?</p> <p>13 A. I did not, no.</p> <p>14 Q. At the theological, what was the</p> <p>15 theological institution? 11:03</p> <p>16 A. It was a rabbinical college.</p> <p>17 Q. Located in New York?</p> <p>18 A. Yes.</p> <p>19 Q. Did you graduate?</p> <p>20 A. I graduated part of the program. Had I 11:03</p> <p>21 graduated the entire program you would have to call</p> <p>22 me rabbi.</p> <p>23 Q. We'll say you're only half a scholar</p> <p>24 then.</p> <p>25 A. Thank you. 11:03</p>	<p style="text-align: right;">Page 17</p> <p>1 Shainberg</p> <p>2 Q. [REDACTED] Great Neck.</p> <p>3 A. No.</p> <p>4 Q. Do you have a driver's license in New</p> <p>5 York? 11:05</p> <p>6 A. Yes, I do.</p> <p>7 Q. Do you have any motor vehicles</p> <p>8 registered in your name in New York?</p> <p>9 A. No.</p> <p>10 Q. Do you know of a person named Robert J. 11:05</p> <p>11 Smith?</p> <p>12 A. I'm not sure.</p> <p>13 Q. Do you know anything of a judgment that</p> <p>14 was rendered against you in Supreme Court New York</p> <p>15 in 2000 in favor of Robert J. Smith in the amount of 11:05</p> <p>16 \$84,132?</p> <p>17 A. I'm not sure of that. May I make a</p> <p>18 comment?</p> <p>19 Q. Wait a second, if you want to talk to</p> <p>20 your attorney let's go off the record and you can 11:06</p> <p>21 discuss this.</p> <p>22 MR. WITHERWAX: Off the record.</p> <p>23 (Witness and counsel confer off the</p> <p>24 record)</p> <p>25 MR. GRAUBARD: We're back on the record. 11:07</p>

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<p>1 Shainberg</p> <p>2 While we were off the record we discussed Mr.</p> <p>3 Witherwax obtaining a copy of the document</p> <p>4 which I am looking at right now, and I</p> <p>5 explained to him it is a report which I 11:07</p> <p>6 obtained off Lexis, and therefore being that</p> <p>7 it is a public document, we will provide Mr.</p> <p>8 Witherwax with a copy of this and any similar</p> <p>9 public record documents.</p> <p>10 Q. Mr. Shainberg, do you know anything 11:07</p> <p>11 about a company called Joshua Shainberg</p> <p>12 International, Inc.?</p> <p>13 A. I may have had a corporation 20 years</p> <p>14 ago like that but I don't recall much.</p> <p>15 Q. Has that corporation done anything 11:07</p> <p>16 recently?</p> <p>17 A. No.</p> <p>18 Q. What about a corporation called ICT</p> <p>19 Technologies, Inc.?</p> <p>20 A. Yes, I'm aware of that company. 11:08</p> <p>21 Q. What is that company?</p> <p>22 A. That is a company located in Westchester</p> <p>23 that I had worked with in 2002 to 2005.</p> <p>24 Q. Are you presently associated with them?</p> <p>25 A. No. 11:08</p>	<p>1 Shainberg</p> <p>2 Q. Well, did you purchase this? Did you</p> <p>3 purchase the stock in the open market? Did you</p> <p>4 receive it directly from the company?</p> <p>5 A. I believe both. 11:09</p> <p>6 Q. And at present you do not own any shares</p> <p>7 of ICT?</p> <p>8 A. That's correct.</p> <p>9 Q. Do you know of a company called Royal</p> <p>10 Ocean Beach Inn? 11:10</p> <p>11 A. No, but I've heard of it.</p> <p>12 Q. What have you heard of Royal Ocean</p> <p>13 Beach?</p> <p>14 A. I think it was a document that was shown</p> <p>15 in one of thousands of documents by the SEC in trial 11:10</p> <p>16 that I went through.</p> <p>17 Q. Do you have any connection with Royal</p> <p>18 Ocean?</p> <p>19 A. Absolutely not.</p> <p>20 Q. What business is ICT Technologies 11:10</p> <p>21 involved in?</p> <p>22 A. Telecommunications, retail sales, motor</p> <p>23 scooters.</p> <p>24 Q. Do you know the names of any of the</p> <p>25 other persons associated with ICT? 11:11</p>
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<p>1 Shainberg</p> <p>2 Q. Between 2002 and 2005, what did you</p> <p>3 do -- what was your relationship at ICT?</p> <p>4 A. I was listed as an executive on the</p> <p>5 company's filings, although I believe I was listed 11:08</p> <p>6 as one of the senior executives, I was not. And my</p> <p>7 role at the company was to assist the chief</p> <p>8 executive officer in his job.</p> <p>9 Q. Did you receive any pay for this?</p> <p>10 A. I did not. 11:09</p> <p>11 Q. Did you receive any stock?</p> <p>12 A. I did not.</p> <p>13 Q. Did you ever own any stock in ICT?</p> <p>14 A. I did.</p> <p>15 Q. When was that? 11:09</p> <p>16 A. I believe I owned the stock -- I owned</p> <p>17 stock in ICT between the late 1990's until 2003 or</p> <p>18 2004.</p> <p>19 Q. How did you obtain the stock in ICT?</p> <p>20 A. The stock was given to me, I'm not a 11:09</p> <p>21 hundred percent sure, I have to look at the filings.</p> <p>22 Q. Again I'm asking for your recollection.</p> <p>23 How do you recall the --</p> <p>24 A. I'm not exactly sure how I obtained it</p> <p>25 but I had it in my ownership during that period. 11:09</p>	<p>1 Shainberg</p> <p>2 A. Yes.</p> <p>3 Q. Who are they?</p> <p>4 A. Vasilios K-o-u-t-s-o-b-i-n-a-s, who is</p> <p>5 the president, as when I left the company he was the 11:11</p> <p>6 president and CEO of that company, and Mr.</p> <p>7 Eracleous, E-r-a-c-l-e-o-u-s, who was the chief</p> <p>8 financial officer.</p> <p>9 Q. Do you know the address for ICT?</p> <p>10 A. As of -- 11:11</p> <p>11 Q. As of the last time you were there?</p> <p>12 A. 181 Westchester Avenue in Port Chester,</p> <p>13 New York.</p> <p>14 Q. Was it previously located at 33 West</p> <p>15 Main Street, Elmsford? 11:12</p> <p>16 A. Yes, it was.</p> <p>17 Q. Who is Sheila Corvino, C-o-r-v-i-n-o?</p> <p>18 A. I believe she was an attorney for the</p> <p>19 company, for ICT Technologies for a short period of</p> <p>20 time. 11:12</p> <p>21 Q. Since you did not receive any pay for</p> <p>22 what you did, why did you work for ICT?</p> <p>23 A. During the time I worked with ICT I</p> <p>24 owned shares in the company, so I hoped that those</p> <p>25 shares would be worth something and I would be able 11:13</p>

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<p>1 Shainberg</p> <p>2 to liquidate it at some worth.</p> <p>3 Q. Why did you stop working with ICT?</p> <p>4 A. The date of the jury verdict, I got a</p> <p>5 call from Mr. Koutsobinas who told me you're no 11:13</p> <p>6 longer associated with the company. So</p> <p>7 apparently -- well, that's it.</p> <p>8 MR. WITHERWAX: Don't speculate --</p> <p>9 A. That's it.</p> <p>10 MR. WITHERWAX: -- on what was in Mr. 11:13</p> <p>11 Koutsobinas's mind.</p> <p>12 A. That's it.</p> <p>13 Q. Mr. Koutsobinas terminated your</p> <p>14 employment?</p> <p>15 A. That's correct. 11:13</p> <p>16 Q. Other than 385 Grand Street, did you</p> <p>17 ever reside either temporarily anywhere else?</p> <p>18 A. No.</p> <p>19 Q. Do you know if your wife owns any other</p> <p>20 real property? 11:14</p> <p>21 A. No.</p> <p>22 Q. No, you don't know, or no, she doesn't?</p> <p>23 A. No, I don't know.</p> <p>24 Q. Do you know of a property located --</p> <p>25 MR. WITHERWAX: Excuse me, can we take a 11:14</p>	<p>1 Shainberg</p> <p>2 Q. If I told you that the records of</p> <p>3 Sullivan County shows she purchased the property in</p> <p>4 December of 2005 for the amount of \$175,000, would</p> <p>5 that refresh your recollection? 11:20</p> <p>6 A. No.</p> <p>7 Q. Do you know where she got the money to</p> <p>8 purchase that property from?</p> <p>9 A. No.</p> <p>10 Q. Do you claim any interest in that 11:20</p> <p>11 property?</p> <p>12 A. I don't.</p> <p>13 Q. Do you discuss financial matters -- let</p> <p>14 me just rephrase that. Any communications between</p> <p>15 yourself and your wife are privileged so I don't 11:20</p> <p>16 want you to tell me anything, I just want to ask you</p> <p>17 a very general question just to find out whether or</p> <p>18 not, this is a yes or no answer, you and your wife</p> <p>19 discuss financial matters in general, that's the</p> <p>20 only question, not what did you say but was there 11:20</p> <p>21 any discussion?</p> <p>22 MR. WITHERWAX: I have to object to</p> <p>23 that, discuss financial matters in general?</p> <p>24 I mean are you talking about buying groceries</p> <p>25 or are you talking about investing? 11:21</p>
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<p>1 Shainberg</p> <p>2 break for a moment?</p> <p>3 MR. GRAUBARD: Sure. We're off the</p> <p>4 record.</p> <p>5 (Recess taken) 11:14</p> <p>6 MR. GRAUBARD: We are now back on the</p> <p>7 record, and for the record we did not discuss</p> <p>8 anything while we were off the record, is</p> <p>9 that correct?</p> <p>10 MR. WITHERWAX: That's correct. 11:19</p> <p>11 BY MR. GRAUBARD:</p> <p>12 Q. Mr. Shainberg, do you know of a property</p> <p>13 called 57 Vacation Village Townhouses, Loch</p> <p>14 Sheldrake, New York in Sullivan County?</p> <p>15 A. I do. 11:19</p> <p>16 Q. What is that property?</p> <p>17 A. That's a property upstate New York.</p> <p>18 Q. Do you know who owns that property?</p> <p>19 A. I believe my wife has that property.</p> <p>20 Q. Your wife owns it? 11:19</p> <p>21 A. I believe so.</p> <p>22 Q. Do you know when your wife purchased</p> <p>23 that property?</p> <p>24 A. I don't know exactly when she purchased</p> <p>25 it. 11:19</p>	<p>1 Shainberg</p> <p>2 MR. GRAUBARD: I'll withdraw the</p> <p>3 question.</p> <p>4 Q. Again I just want you to be clear that I</p> <p>5 do not want -- there are certain things that I do 11:21</p> <p>6 not want you to answer to. What you discussed with</p> <p>7 your wife, what you discussed with your attorney or</p> <p>8 what you discussed with your doctor or what you</p> <p>9 discussed with any religious advisor. So we don't</p> <p>10 want those answers. If you wanted to give it 11:21</p> <p>11 voluntarily talk to your attorney first, I don't</p> <p>12 want to get into there.</p> <p>13 MR. WITHERWAX: Don't.</p> <p>14 Q. Have you ever been at the 57 Vacation</p> <p>15 Village premises? 11:21</p> <p>16 A. Yes.</p> <p>17 Q. How often?</p> <p>18 A. Generally it's in the summertime.</p> <p>19 Q. What kind of a house is that?</p> <p>20 A. It's a townhouse, connected townhouse. 11:21</p> <p>21 Q. How many bedrooms?</p> <p>22 A. Three.</p> <p>23 Q. Is there a mortgage on that property?</p> <p>24 A. I don't know.</p> <p>25 Q. Let me rephrase it again, did you sign 11:22</p>

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<p>1 Shainberg</p> <p>2 A. I have heard of it, yes.</p> <p>3 Q. What do you know about JFK Oil Terminal?</p> <p>4 A. I believe it's associated with my wife.</p> <p>5 Q. Have you ever been associated with it? 11:26</p> <p>6 A. I'm not sure what you mean by</p> <p>7 associated.</p> <p>8 Q. Have you ever been an officer of it?</p> <p>9 A. I may have been an officer of it.</p> <p>10 Q. What do you mean you may have been? 11:26</p> <p>11 A. I may have assisted my wife in being an</p> <p>12 officer in that entity.</p> <p>13 Q. Do you know where JFK Oil Terminal is</p> <p>14 located?</p> <p>15 A. I believe it's in Pennsylvania. 11:27</p> <p>16 Q. Are you presently associated with it?</p> <p>17 A. No.</p> <p>18 Q. When to your knowledge were you last</p> <p>19 associated with it as an officer?</p> <p>20 A. I'm not sure. I don't know if I was an 11:27</p> <p>21 officer, by the way, but I know I was assisting my</p> <p>22 wife in matters relating to it.</p> <p>23 Q. When you say assisting your wife, could</p> <p>24 you describe what you did?</p> <p>25 A. I advised her on certain matters she may 11:27</p>	<p>1 Shainberg</p> <p>2 matter of form can you show me these</p> <p>3 documents --</p> <p>4 MR. GRAUBARD: Certainly.</p> <p>5 MR. WITHERWAX: -- before you ask my 11:29</p> <p>6 client to look at them.</p> <p>7 MR. GRAUBARD: Certainly. For the</p> <p>8 record it does contain both the federal 1040</p> <p>9 and the New York State IT-201.</p> <p>10 Q. I'm going to ask you some questions on 11:29</p> <p>11 this, Mr. Shainberg. First of all, whose</p> <p>12 handwriting is it -- the printed handwriting on say</p> <p>13 the first page?</p> <p>14 A. Mine.</p> <p>15 Q. Going to the second page, is that your 11:29</p> <p>16 signature?</p> <p>17 A. Yes.</p> <p>18 Q. And below it, is that your wife's</p> <p>19 signature?</p> <p>20 A. Yes. 11:30</p> <p>21 Q. Now let's go back to the first page. It</p> <p>22 says, it's a little hard to read, but on line 13 it</p> <p>23 says capital gain \$14,810. What is that?</p> <p>24 A. That's related to the schedule here.</p> <p>25 Q. In other words where did that come from? 11:30</p>
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<p>1 Shainberg</p> <p>2 have asked me on.</p> <p>3 Q. Did she pay you anything for that</p> <p>4 advice?</p> <p>5 A. No. No, she did not. 11:27</p> <p>6 Q. I didn't ask you if the advice was any</p> <p>7 good, did I? Is JFK Oil Terminal still in business?</p> <p>8 A. I don't know if it was ever in business.</p> <p>9 It was an entity that my wife was involved in.</p> <p>10 MR. GRAUBARD: I'm going to mark as 11:28</p> <p>11 Exhibit 3 a copy of which appears to be a</p> <p>12 copy of a 2006 income tax return which was</p> <p>13 provided by your attorney in production.</p> <p>14 A. Okay.</p> <p>15 MR. GRAUBARD: Plaintiff's 3 marked for 11:28</p> <p>16 identification.</p> <p>17 (Plaintiff's Exhibit 3, 2006 income tax</p> <p>18 return, was so marked for identification.)</p> <p>19 MR. GRAUBARD: Again I just want to tell</p> <p>20 you that there will be the redactions if this 11:28</p> <p>21 document is ever produced.</p> <p>22 MR. WITHERWAX: Just as a matter -- I</p> <p>23 don't need to look at this, although I'll</p> <p>24 take a quick look at it and make sure it's</p> <p>25 the same thing that I gave you. Just as a 11:29</p>	<p>1 Shainberg</p> <p>2 A. That was related to a sale of a stock --</p> <p>3 I'm sorry, college savings funds.</p> <p>4 Q. What is a college savings fund?</p> <p>5 A. I believe my wife had some funds for the 11:30</p> <p>6 children and she sold it.</p> <p>7 Q. I notice you were referring to</p> <p>8 Schedule D, I believe, that you showed the same</p> <p>9 amount both as a short-term capital gain and as a</p> <p>10 long-term capital gain. 11:31</p> <p>11 A. Okay.</p> <p>12 Q. Why did you do that?</p> <p>13 A. I have no clue.</p> <p>14 Q. But that is your handwriting?</p> <p>15 A. Yes, I believe my wife made this up and 11:31</p> <p>16 I signed it and she told me what to put down and I</p> <p>17 did it.</p> <p>18 Q. Wait a second. You just said something</p> <p>19 which I want to -- again I'm not asking you what</p> <p>20 your wife said -- you said I believe my wife made 11:31</p> <p>21 this up?</p> <p>22 A. No, my wife gave me this information.</p> <p>23 She dictated it to me and I put it down and you</p> <p>24 brought up an interesting point, part one and part</p> <p>25 two are both written when I assume that only one of 11:31</p>

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<p>1 Shainberg</p> <p>2 them should be. I have no idea.</p> <p>3 MR. WITHERWAX: Just to clarify this, I</p> <p>4 don't think that Mr. Shainberg when he might</p> <p>5 have mentioned my wife made this up, he 11:32</p> <p>6 certainly wasn't referring to the fact that</p> <p>7 she fabricated it.</p> <p>8 MR. GRAUBARD: I didn't think he was. I</p> <p>9 just wanted to be sure that we didn't leave</p> <p>10 that impression on the record. 11:32</p> <p>11 MR. WITHERWAX: Thank you, that's good.</p> <p>12 Q. Now on the second page, Mr. Shainberg,</p> <p>13 next to your signature it says your occupation, you</p> <p>14 wrote in manager?</p> <p>15 A. Right. 11:32</p> <p>16 Q. Why did you write manager instead of</p> <p>17 unemployed?</p> <p>18 A. I don't know. I guess I was thinking</p> <p>19 about managing the household.</p> <p>20 MR. WITHERWAX: Do you have an extra 11:33</p> <p>21 copy so that I can look on as you ask the</p> <p>22 witness questions.</p> <p>23 MR. GRAUBARD: I only have two copies.</p> <p>24 I will make more copies later.</p> <p>25 Let me get this marked as Exhibit 4. 11:33</p>	<p>1 Shainberg</p> <p>2 (Plaintiff's Exhibit 5, Statements for</p> <p>3 year ending December 31, 2005, was so marked</p> <p>4 for identification.)</p> <p>5 Q. Exhibit 5 is the statements for this 11:37</p> <p>6 account that were produced for the year ending</p> <p>7 December 31, 2005. Again they were produced by your</p> <p>8 attorney, Mr. Shainberg.</p> <p>9 If you want to take a moment to look it</p> <p>10 over, we'll go off the record. 11:37</p> <p>11 (Pause)</p> <p>12 A. Okay.</p> <p>13 Q. So referring now to Exhibit 5, I'm going</p> <p>14 to ask you some questions, I'm going to start on --</p> <p>15 it says on the third page, it says page 3 of 5. 11:39</p> <p>16 Starting off we have a section called</p> <p>17 sales, proceeds and redemptions. This indicates</p> <p>18 total sales of \$7,240.08 during 2005.</p> <p>19 A. Yes.</p> <p>20 Q. And you directed that these sales take 11:39</p> <p>21 place?</p> <p>22 A. I believe so.</p> <p>23 Q. This account is in your name, does</p> <p>24 anyone else hold trading authority over this</p> <p>25 account? 11:39</p>
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<p>1 Shainberg</p> <p>2 (Plaintiff's Exhibit 4, Morgan Stanley</p> <p>3 statements for year ending December 2006, was</p> <p>4 so marked for identification.)</p> <p>5 Q. Again this was an item produced by your 11:34</p> <p>6 attorney, Mr. Shainberg, which is a set of</p> <p>7 statements from Morgan Stanley for the year ending</p> <p>8 December 2005. I would like to go to the page 4 of</p> <p>9 5, it says on the top. This is account number -- I</p> <p>10 marked 2006 instead of 2005 so we will now 11:34</p> <p>11 seamlessly switch into the 2006.</p> <p>12 According to these records, basically</p> <p>13 you had no transactions in 2006, is that correct?</p> <p>14 A. Is this the transaction in 2006?</p> <p>15 Q. Instead of no transaction, minimal 11:35</p> <p>16 transaction.</p> <p>17 A. Yes, one minor transaction.</p> <p>18 Q. For \$76.75.</p> <p>19 (Phone interruption)</p> <p>20 Q. So other than this one transaction, 11:36</p> <p>21 basically nothing occurred in your account during</p> <p>22 the year 2006?</p> <p>23 A. Correct.</p> <p>24 MR. GRAUBARD: Let me get this marked as</p> <p>25 Exhibit 5. 11:37</p>	<p>1 Shainberg</p> <p>2 A. I don't believe so.</p> <p>3 Q. Now, if you go down next line where it</p> <p>4 says, next section says debits to your account, at</p> <p>5 first there's a notation on December 5, it says 11:40</p> <p>6 "Wired funds, sent beneficiary JFK Oil Terminal</p> <p>7 Corp."</p> <p>8 A. Yes.</p> <p>9 Q. Why were these funds sent to JFK Oil</p> <p>10 Terminal? 11:40</p> <p>11 A. I believe my wife asked me to do so.</p> <p>12 Q. She asked you to do so, did you receive</p> <p>13 anything in exchange for these funds?</p> <p>14 A. No, I did not.</p> <p>15 Q. Then you have December 7th in the amount 11:40</p> <p>16 of \$1,085.46, beneficiary Joshua Shainberg, care of</p> <p>17 something, and the same account number is appearing</p> <p>18 for the December 5th transaction. Why were these</p> <p>19 funds sent?</p> <p>20 A. Same reason. 11:40</p> <p>21 Q. December 13 in the amount of \$399.73, a</p> <p>22 wire transfer to JFK Oil Terminal Corp.?</p> <p>23 A. The same reason.</p> <p>24 Q. The next page, December 16, wire</p> <p>25 transfer of \$2,700 to JFK Oil Terminal Corp.? 11:41</p>

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<p>1 Shainberg</p> <p>2 A. It's the same reason.</p> <p>3 Q. Going down to the next section where it</p> <p>4 says additional account information, if you look at</p> <p>5 the first item under securities received dated 11:41</p> <p>6 September 21, it says "Did you receive the transfer</p> <p>7 of 126,000 shares of something called ICT Group,</p> <p>8 Inc."?</p> <p>9 A. That's right.</p> <p>10 Q. And what is ICT Group, Inc.? 11:41</p> <p>11 A. This was a major mistake admitted to by</p> <p>12 Morgan Stanley when they apparently were receiving</p> <p>13 into this account ICT Technologies, Inc., which is</p> <p>14 recognized by CUSIP number, and inadvertently they</p> <p>15 received in or their computer showed that instead of 11:42</p> <p>16 receiving into this account 126,000 shares of ICT</p> <p>17 Technologies, which may have traded at pennies, they</p> <p>18 received in ICT Group, which apparently had a value</p> <p>19 of \$1-1/2 million.</p> <p>20 And honestly, I called them up and I 11:42</p> <p>21 told them I don't have a million and a half dollars</p> <p>22 with you, and they said thank you very much because</p> <p>23 it was in this account, and apparently that's why</p> <p>24 you see wrong CUSIP and they took it back.</p> <p>25 Q. So it falls under the category of the 11:42</p>	<p>1 Shainberg</p> <p>2 the question. It implies he still holds this</p> <p>3 account.</p> <p>4 Q. Do you still hold the Morgan Stanley</p> <p>5 account? 11:44</p> <p>6 A. I don't believe so, no.</p> <p>7 Q. When did you close it?</p> <p>8 A. I don't even know if I closed it. I</p> <p>9 think there was nothing in it.</p> <p>10 Q. So at the present time do you have any 11:44</p> <p>11 account with any securities broker or dealer?</p> <p>12 A. No.</p> <p>13 Q. At the present time do you hold trading</p> <p>14 authority in any account with any securities broker</p> <p>15 or dealer? 11:44</p> <p>16 A. I do not.</p> <p>17 Q. At the present time do you have a power</p> <p>18 of attorney to execute transactions for any account</p> <p>19 with any securities broker or dealer?</p> <p>20 A. I don't. 11:44</p> <p>21 Q. At the present time do you own any</p> <p>22 account with any commodities broker or dealer?</p> <p>23 A. I don't.</p> <p>24 Q. At the present time do you have trading</p> <p>25 authority over any account with any commodities 11:44</p>
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<p>1 Shainberg</p> <p>2 old monopoly card bank error in your favor?</p> <p>3 A. But it wasn't in my favor because I</p> <p>4 called them up and told them that they made a</p> <p>5 mistake. 11:42</p> <p>6 Q. But in any event, at that point it</p> <p>7 looked like you were worth a million and a half</p> <p>8 dollars?</p> <p>9 A. Oh, yeah.</p> <p>10 Q. On the last item of that group it says 11:42</p> <p>11 "Remove legend."</p> <p>12 A. On the last line?</p> <p>13 Q. No, in the group.</p> <p>14 A. I'm not sure, it may have been related</p> <p>15 to restriction or restriction removal, I'm not sure. 11:43</p> <p>16 Q. Did you receive restricted shares, if</p> <p>17 you know?</p> <p>18 A. I'm not sure about the entire -- I'm not</p> <p>19 sure about these quantities and whether they were</p> <p>20 restricted or not restricted. 11:43</p> <p>21 Q. Other than this Morgan Stanley account,</p> <p>22 Exhibits 4 and 5, do you own any other account with</p> <p>23 any securities, broker or dealer?</p> <p>24 A. I do not.</p> <p>25 MR. WITHERWAX: I object to the form of 11:43</p>	<p>1 Shainberg</p> <p>2 broker or dealer?</p> <p>3 A. I don't.</p> <p>4 Q. At the present time do you have a power</p> <p>5 of attorney authorizing you to conduct transactions 11:44</p> <p>6 in any account with any commodities broker or</p> <p>7 dealer?</p> <p>8 A. I'm not aware of any.</p> <p>9 Q. Do you have ownership of any bank</p> <p>10 account that is in your own name? 11:44</p> <p>11 A. Not that I'm aware of.</p> <p>12 Q. Do you have an interest in any bank</p> <p>13 account that is joint between yourself and any other</p> <p>14 person?</p> <p>15 A. Not that I'm aware of. 11:45</p> <p>16 Q. Do you hold any bank accounts as</p> <p>17 custodian for any person?</p> <p>18 A. Not that I'm aware of.</p> <p>19 Q. To your knowledge are you the</p> <p>20 beneficiary of any bank account held by another 11:45</p> <p>21 person?</p> <p>22 A. Not that I'm aware of.</p> <p>23 Q. Do you have any assets located outside</p> <p>24 of the United States?</p> <p>25 A. Not that I'm aware of. 11:45</p>

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<p>1 Shainberg</p> <p>2 Q. In the past ten years, have you had any</p> <p>3 assets located outside of the United States?</p> <p>4 A. Only when Judge Pohorelsky and jury at</p> <p>5 that time claimed that I did, but I'm not aware of, 11:45</p> <p>6 not to be facetious.</p> <p>7 MR. WITHERWAX: Then your answer is no.</p> <p>8 A. I'm sorry, no.</p> <p>9 Q. In the past ten years have you</p> <p>10 transferred any assets outside of the United States? 11:45</p> <p>11 A. Not that I'm aware of.</p> <p>12 Q. Have you put any assets in the hands of</p> <p>13 any -- for this purpose I am going to be talking now</p> <p>14 about the period of time since this lawsuit was</p> <p>15 brought against you in December -- let's make it 11:46</p> <p>16 even easier, we'll start with 2000 so we'll leave</p> <p>17 that little part of December off.</p> <p>18 Since January 2000, have you transferred</p> <p>19 any property to anyone without receiving equal value</p> <p>20 in return? 11:46</p> <p>21 A. Yes.</p> <p>22 Q. When was that?</p> <p>23 A. I'm not sure of the exact time or date,</p> <p>24 but from that time I transferred ICT Technologies'</p> <p>25 stock that was in my name to my wife. 11:46</p>	<p>1 Shainberg</p> <p>2 A. January 2006?</p> <p>3 Q. January 2000. Since January 2000 did</p> <p>4 you transfer property worth more than \$50,000 to</p> <p>5 anyone with or without consideration? 11:48</p> <p>6 A. I'm not aware of anyone other than the</p> <p>7 transaction that I mentioned to you before which I'm</p> <p>8 not aware of the value.</p> <p>9 Q. Going back to that transfer of the</p> <p>10 stock, did you do this through a securities broker? 11:48</p> <p>11 A. I'm not sure of the exact parameters of</p> <p>12 that transaction other than I gave it to my wife.</p> <p>13 Q. Do you know what your wife did with the</p> <p>14 securities after she received them?</p> <p>15 A. No. 11:48</p> <p>16 Q. Did you place any restrictions on your</p> <p>17 wife's ability to use these funds?</p> <p>18 A. Use these what?</p> <p>19 Q. The securities. Did you tell her --</p> <p>20 when you gave the securities was this an absolute 11:49</p> <p>21 outright gift with no restrictions?</p> <p>22 A. Yes.</p> <p>23 Q. Have you given any property to or for</p> <p>24 the benefit of your children since January 2000?</p> <p>25 A. I'm not aware of it. 11:49</p>
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<p>1 Shainberg</p> <p>2 Q. How much stock did you transfer?</p> <p>3 A. I'm not sure of the exact amount but it</p> <p>4 was whatever I believe I owned at the time.</p> <p>5 Q. Do you recall approximately when that 11:47</p> <p>6 was?</p> <p>7 A. A couple of years ago or so, maybe less.</p> <p>8 Q. To the best of your recollection how</p> <p>9 much was that stock worth? Again was it worth a</p> <p>10 thousand dollars, \$10,000, \$100,000 or I don't know? 11:47</p> <p>11 A. I don't know, I'm not sure.</p> <p>12 Q. And this was -- there was no</p> <p>13 consideration for that transfer?</p> <p>14 A. There was no consideration.</p> <p>15 Q. Did you transfer any other property for 11:47</p> <p>16 no consideration to anyone?</p> <p>17 A. I'm not aware of any.</p> <p>18 Q. Since January 2006 have you transferred</p> <p>19 any property worth more than \$50,000 to anyone for</p> <p>20 consideration? 11:47</p> <p>21 MR. WITHERWAX: Excuse me, Counsel, what</p> <p>22 was that date again?</p> <p>23 MR. GRAUBARD: January 1, 2006. I'm</p> <p>24 talking about the time the lawsuit has been</p> <p>25 pending. 11:48</p>	<p>1 Shainberg</p> <p>2 Q. Have you given any of your properties</p> <p>3 since January of 2000 to any charity of significant</p> <p>4 value? I'm not interested in other considerations.</p> <p>5 A. I'm not sure. 11:49</p> <p>6 Q. What type of financial records do you</p> <p>7 keep personally? Let me ask do you keep records of</p> <p>8 your stock transactions?</p> <p>9 A. No. I should but I don't want to</p> <p>10 volunteer anything. 11:49</p> <p>11 Q. Let's go back, other than the account at</p> <p>12 Morgan Stanley, did you have an account with a</p> <p>13 different broker/dealer before that?</p> <p>14 A. I had accounts many years ago.</p> <p>15 Q. When the stocks were transferred into 11:50</p> <p>16 your accounts at Morgan Stanley where were they</p> <p>17 transferred from?</p> <p>18 A. I believe they were transferred from the</p> <p>19 other account but I'm not sure.</p> <p>20 Q. You're not sure. Do you know where that 11:50</p> <p>21 account was located?</p> <p>22 A. I don't want to say something I'm not a</p> <p>23 hundred percent sure of.</p> <p>24 Q. It says on the document there was a</p> <p>25 transfer from Fiserv, F-i-s-e-r-v, does that refresh 11:50</p>

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<p>1 Shainberg</p> <p>2 your recollection?</p> <p>3 A. No, that could be Fiserv -- that could</p> <p>4 be a clearing firm possibly, so that's not a</p> <p>5 brokerage company that I'm aware of or I have an 11:50</p> <p>6 account at.</p> <p>7 Q. Why did you make the transfer of funds</p> <p>8 to Morgan Stanley?</p> <p>9 A. I have no idea.</p> <p>10 Q. Do you have any records of securities 11:50</p> <p>11 transactions in the account that you held before</p> <p>12 Morgan Stanley?</p> <p>13 A. I'm not sure. You mean individually?</p> <p>14 Q. Let me go back and clarify this. I'm</p> <p>15 going to go back, I'm going to work back. In 2005 11:51</p> <p>16 it appears that securities were transferred to</p> <p>17 Morgan Stanley?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know where those securities were</p> <p>20 before? 11:51</p> <p>21 A. I'm not a hundred percent sure, I'm</p> <p>22 sorry.</p> <p>23 Q. You're not sure?</p> <p>24 A. Right.</p> <p>25 Q. Would it -- do you have any record of 11:51</p>	<p>1 Shainberg</p> <p>2 Q. When you say immediately available,</p> <p>3 where do you believe those records might be located?</p> <p>4 A. I don't know.</p> <p>5 Q. What type of a search did you conduct? 11:53</p> <p>6 A. Well, I looked in my house obviously</p> <p>7 where it would be, if I had it, and much of what is</p> <p>8 requested here on page 5 and page 6, I did not have</p> <p>9 access to or knowledge of.</p> <p>10 Q. Those are two different terms. The 11:54</p> <p>11 first one you said is I did not have access to, what</p> <p>12 did you mean by that?</p> <p>13 A. Well, I don't necessarily have access to</p> <p>14 everything my wife has, Laryssa Shainberg.</p> <p>15 Q. So your wife might have access to 11:54</p> <p>16 documents that you don't have access to?</p> <p>17 A. Possibly, yes.</p> <p>18 Q. Did you conduct a thorough search of the</p> <p>19 items in your house that you had access to?</p> <p>20 A. I believe so. 11:54</p> <p>21 Q. And you produced all of those documents?</p> <p>22 A. Yes.</p> <p>23 Q. Are there any documents that you located</p> <p>24 but did not produce for any reason?</p> <p>25 A. No. 11:55</p>
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<p>1 Shainberg</p> <p>2 the account in which these securities were being</p> <p>3 held going back to before the transfer to Morgan</p> <p>4 Stanley?</p> <p>5 A. I'm pretty sure I have them someplace. 11:51</p> <p>6 Q. You have them?</p> <p>7 A. I'm pretty sure I have them someplace.</p> <p>8 MR. GRAUBARD: I'm going to mark as</p> <p>9 Exhibit 6 a request for production which is</p> <p>10 dated November 27th, 2006. 11:52</p> <p>11 (Plaintiff's Exhibit 6, Request for</p> <p>12 production dated November 27th, 2006, was so</p> <p>13 marked for identification.)</p> <p>14 Q. Did you receive the request for</p> <p>15 production marked as Exhibit 6? 11:53</p> <p>16 A. I believe I may have received this from</p> <p>17 my attorney.</p> <p>18 Q. Did you conduct a search for the</p> <p>19 documents that are requested in this request for</p> <p>20 production? 11:53</p> <p>21 A. I did a preliminary search.</p> <p>22 Q. But you didn't do an extensive search?</p> <p>23 A. I attempted to do an extensive search</p> <p>24 and I didn't have those records immediately</p> <p>25 available. 11:53</p>	<p>1 Shainberg</p> <p>2 Q. Are there any documents you withheld on</p> <p>3 the ground that they were privileged for any reason?</p> <p>4 A. No.</p> <p>5 Q. Are there any documents that you know of 11:55</p> <p>6 that once existed but presently do not exist but</p> <p>7 would have been responsive? In other words, let me</p> <p>8 phrase that a little differently. What I mean is do</p> <p>9 you know of any documents that existed in the past</p> <p>10 and were responsive but don't exist anymore because 11:55</p> <p>11 you threw them out, for example?</p> <p>12 A. I don't know.</p> <p>13 Q. I'm going to turn now to the apartment</p> <p>14 you live in. Who owned the apartment before your</p> <p>15 wife owned it? Let me revise that because we're 11:55</p> <p>16 dealing with a co-op so let me be very particular</p> <p>17 here. In a co-op apartment you don't own the</p> <p>18 apartment, you own shares of stock in the co-op</p> <p>19 corporation that you hold prior to release, is that</p> <p>20 correct? 11:56</p> <p>21 A. Yes.</p> <p>22 Q. So who was the owner of the shares and</p> <p>23 the proprietary lease for the co-op apartment before</p> <p>24 your wife?</p> <p>25 A. That's a very good question. 11:56</p>

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<p>1 Shainberg</p> <p>2 Chronologically I and my brothers inherited the</p> <p>3 apartment from my parents who passed away, so I</p> <p>4 don't know if I ever was a complete owner of the</p> <p>5 apartment of the shares. I certainly was a part 11:56</p> <p>6 owner or a one third owner, so to speak. I have two</p> <p>7 brothers.</p> <p>8 Q. You and your brothers were the owners?</p> <p>9 A. At one time, yes.</p> <p>10 Q. How did the ownership go from you and 11:56</p> <p>11 your brothers to your wife?</p> <p>12 A. I believe it may have gone from -- I'm</p> <p>13 not a hundred percent sure and I'm sure you have the</p> <p>14 records, but I believe it had gone from my brothers</p> <p>15 to me and then from me to my wife. I am not sure at 11:57</p> <p>16 what point and what percentage I owned any part of</p> <p>17 that co-op certificate or shares.</p> <p>18 Q. Well, you owned the shares and the lease</p> <p>19 is what you owned?</p> <p>20 A. Right. So it went from my brother to me 11:57</p> <p>21 and my wife and then me and my wife to my wife only.</p> <p>22 Q. When did you transfer it from yourself</p> <p>23 and your wife to your wife only?</p> <p>24 A. You have the records, I'm not exactly</p> <p>25 sure. 11:57</p>	<p>1 Shainberg</p> <p>2 Q. When -- now without knowing when the</p> <p>3 transfers occurred, did your wife pay you anything</p> <p>4 for your whatever ownership interest you had in the</p> <p>5 co-op, did she pay you anything for it? 11:58</p> <p>6 A. No.</p> <p>7 Q. Did you pay your brothers anything for</p> <p>8 the interest they had in the co-op?</p> <p>9 A. I don't think so.</p> <p>10 Q. Now at this point we can do one of two 11:59</p> <p>11 things, I can start going into these specifics and</p> <p>12 we'll take a fair amount of time or we can take a</p> <p>13 short break at this point and then go into it.</p> <p>14 MR. WITHERWAX: Can we go off the</p> <p>15 record. 11:59</p> <p>16 MR. GRAUBARD: Yes.</p> <p>17 (Discussion off the record)</p> <p>18 (Lunch recess: 12:00 p.m.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 Shainberg</p> <p>2 Q. Do you believe that was before or after</p> <p>3 the lawsuit was brought?</p> <p>4 A. You're asking about transfer?</p> <p>5 Q. The transfer. 11:57</p> <p>6 A. The legal transfer of the document?</p> <p>7 Q. Yes.</p> <p>8 A. Of the certificate?</p> <p>9 Q. Let me rephrase it. Do you know when</p> <p>10 your wife became the sole owner of the co-op 11:58</p> <p>11 apartment you live in?</p> <p>12 A. Okay.</p> <p>13 Q. That's a yes or no, do you know when it</p> <p>14 was?</p> <p>15 A. I think it's a legal question. 11:58</p> <p>16 MR. GRAUBARD: I'll withdraw it.</p> <p>17 MR. WITHERWAX: Excuse me, Counsel, you</p> <p>18 have subpoenaed the records of the co-op</p> <p>19 association. Perhaps you could show Mr.</p> <p>20 Shainberg something to refresh his 11:58</p> <p>21 recollection.</p> <p>22 MR. GRAUBARD: I intend to get there.</p> <p>23 I'm going to get there, I was just trying to</p> <p>24 ask some questions first.</p> <p>25 A. I'm not sure. 11:58</p>	<p>1 Shainberg</p> <p>2 Afternoon Session</p> <p>3 1:33 p.m.</p> <p>4 JOSHUA SHAINBERG,</p> <p>5 having been previously duly sworn, was examined and 01:33</p> <p>6 testified further as follows:</p> <p>7 EXAMINATION (Continued)</p> <p>8 BY MR. GRAUBARD:</p> <p>9 Q. Mr. Shainberg, during the recess we</p> <p>10 discussed Roman history primarily, is that correct? 01:35</p> <p>11 A. That's correct.</p> <p>12 Q. But we didn't discuss anything about</p> <p>13 your case?</p> <p>14 A. No.</p> <p>15 Q. And I want to just remind you, you are 01:35</p> <p>16 still under oath. Do you understand that?</p> <p>17 A. Yes.</p> <p>18 Q. Going back for just a little bit to what</p> <p>19 we were dealing with before the break, you had</p> <p>20 mentioned something about that you had had a prior 01:35</p> <p>21 account before Morgan Stanley?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know what documents you would</p> <p>24 have had that you can't locate now, what those type</p> <p>25 of documents would be? 01:35</p>

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<p>1 Shainberg</p> <p>2 A. Probably monthly statements.</p> <p>3 Q. Account statements?</p> <p>4 A. Yes.</p> <p>5 Q. When was the last time you had any type 01:35</p> <p>6 of a checking account in your name?</p> <p>7 A. A long time ago, I don't recall. Many</p> <p>8 years ago.</p> <p>9 Q. And you don't have any records from</p> <p>10 those? 01:36</p> <p>11 A. No.</p> <p>12 Q. Going -- I'm going to focus now on the</p> <p>13 cooperative apartment, what I am going to do is</p> <p>14 these are documents we obtained from the co-op</p> <p>15 managing agent and I'm going to mark three 01:36</p> <p>16 documents, these are in the order that were</p> <p>17 presented by the managing agent. I'm going to mark</p> <p>18 three documents at once and then I am going to show</p> <p>19 them to you and your counsel and ask some questions.</p> <p>20 The first of these is a document, it 01:36</p> <p>21 starts with the Bates number SP 0062 and a</p> <p>22 certificate from the Surrogate's Court of the County</p> <p>23 of New York, and that would be Exhibit number 7.</p> <p>24 (Plaintiff's Exhibit 7, Certificate from</p> <p>25 Surrogate's Court of County of New York 01:36</p>	<p>1 Shainberg</p> <p>2 one of them?</p> <p>3 A. I'm not sure.</p> <p>4 Q. And both your parents are presently</p> <p>5 deceased? 01:40</p> <p>6 A. Correct.</p> <p>7 Q. What was your father's name?</p> <p>8 A. Nuta.</p> <p>9 Q. N-u-t-a?</p> <p>10 A. Yes. 01:40</p> <p>11 Q. When did he die?</p> <p>12 A. 1975.</p> <p>13 Q. And your mother?</p> <p>14 A. Rachel.</p> <p>15 Q. And when did she die? 01:40</p> <p>16 A. 1990.</p> <p>17 Q. According to these documents, no steps</p> <p>18 were taken for the administration of either estate</p> <p>19 until the 1990's, is that correct?</p> <p>20 A. I'm not aware of it, I did not handle 01:40</p> <p>21 it.</p> <p>22 Q. Who handled the administration in the</p> <p>23 Surrogate's Court?</p> <p>24 A. I believe it probably was my brother</p> <p>25 Abe. 01:41</p>
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<p>1 Shainberg</p> <p>2 beginning with Bates number SP 0062, was so</p> <p>3 marked for identification.)</p> <p>4 Q. The second document starts with Bates SP</p> <p>5 0100, a letter from Joshua Shainberg dated August 01:37</p> <p>6 8th, 1999, that will be Exhibit 8.</p> <p>7 (Plaintiff's Exhibit 8, Letter from</p> <p>8 Joshua Shainberg dated August 8th, 1999</p> <p>9 beginning with Bates number SP 0100, was so</p> <p>10 marked for identification.) 01:37</p> <p>11 Q. The third of these is a document</p> <p>12 starting with Bates number 00 -- SP 0076 and an</p> <p>13 order amending letters of administration from the</p> <p>14 Surrogate's Court, Exhibit 9.</p> <p>15 (Plaintiff's Exhibit 9, Order amending 01:37</p> <p>16 letters of administration from Surrogate's</p> <p>17 Court beginning with Bates number SP 0076,</p> <p>18 was so marked for identification.)</p> <p>19 Q. Mr. Shainberg, can you take a moment to</p> <p>20 read these three exhibits or at least look at them 01:38</p> <p>21 because I have some questions and this may help you</p> <p>22 refresh your recollection.</p> <p>23 (Pause)</p> <p>24 Q. The co-op apartment was originally --</p> <p>25 was it originally owned by both your parents or just 01:40</p>	<p>1 Shainberg</p> <p>2 Q. Is Abe an attorney?</p> <p>3 A. Yes.</p> <p>4 Q. I'd like you to look at Exhibit 8, and</p> <p>5 starting on the third page there's a petition for 01:41</p> <p>6 letters of administration in the estate of Nuta</p> <p>7 Shainberg, and this appears to be in your name and</p> <p>8 signed by you in 1999.</p> <p>9 A. Okay.</p> <p>10 Q. Did you sign this application? Is that 01:41</p> <p>11 your signature --</p> <p>12 A. Yes, it's my signature.</p> <p>13 Q. On page SP 0105. Do you recall why</p> <p>14 there was a delay in actually going to the</p> <p>15 administration of this estate? 01:42</p> <p>16 A. I don't recall.</p> <p>17 Q. Did it have anything to do with the</p> <p>18 transfer of the ownership of the co-op?</p> <p>19 A. I have no idea.</p> <p>20 Q. How was it determined that the co-op 01:42</p> <p>21 would be placed in your name and not in the name of</p> <p>22 your brothers?</p> <p>23 A. I'm not sure. I thought it was in the</p> <p>24 name of my brothers or transferred from my parents</p> <p>25 to my brothers and I, and later on transferred from 01:43</p>

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<p style="text-align: right;">Page 58</p> <p>1 Shainberg</p> <p>2 my brothers and I to myself or myself and my wife.</p> <p>3 I'm not sure, I'd have to ask my brother.</p> <p>4 Q. Did your brother handle the</p> <p>5 transactions? 01:43</p> <p>6 A. Well, he handled these matters at the</p> <p>7 time.</p> <p>8 Q. If your brother was handling the matters</p> <p>9 why was it that you were designated as the</p> <p>10 administrator, do you know? 01:43</p> <p>11 MR. WITHERWAX: Objection. I think it</p> <p>12 calls for speculation.</p> <p>13 Q. Let me ask you, do you know why you were</p> <p>14 designated as administrator and not your brother?</p> <p>15 A. I don't. 01:44</p> <p>16 Q. If you go to Exhibit 8 and page SP 0106,</p> <p>17 it does not show any attorney as being -- as</p> <p>18 appearing for the estate. Are you aware of that?</p> <p>19 A. I'm looking at the pages, you're</p> <p>20 correct. 01:44</p> <p>21 Q. Were you aware that your brother Abe was</p> <p>22 not appearing as attorney at that time?</p> <p>23 A. I had no idea.</p> <p>24 Q. I'm just going to take a little</p> <p>25 tangential question before I get on to this. I'm 01:44</p>	<p style="text-align: right;">Page 60</p> <p>1 Shainberg</p> <p>2 Q. -- this appears to be a contract of</p> <p>3 sale, and if you look at page 370, is that your</p> <p>4 signature on page 370?</p> <p>5 A. This is a contract of an intent to sell? 01:46</p> <p>6 In other words it's a contract between myself and</p> <p>7 the estate of Julius Keller by his son, I believe,</p> <p>8 Ira Keller, to purchase that contract which did not</p> <p>9 go through.</p> <p>10 Q. Is that your signature on page 370? 01:47</p> <p>11 A. Yes, it is.</p> <p>12 Q. Why did you want to purchase unit L805?</p> <p>13 A. I think my wife wanted to purchase L805</p> <p>14 because it was adjoining our -- it was adjoining</p> <p>15 L806, and so she probably wanted to expand the 01:47</p> <p>16 amount of square footage.</p> <p>17 Q. But the contract was in your name, not</p> <p>18 her name, is that correct?</p> <p>19 A. It appears so.</p> <p>20 MR. GRAUBARD: I'm going to mark as 01:47</p> <p>21 Exhibit 11, documents starting with Bates</p> <p>22 number 0139.</p> <p>23 (Plaintiff's Exhibit 11, Document</p> <p>24 beginning with Bates number 0139, was so</p> <p>25 marked for identification.) 01:48</p>
<p style="text-align: right;">Page 59</p> <p>1 Shainberg</p> <p>2 going to mark as Exhibit 10 again documents</p> <p>3 presented by the co-op board starting at SP 0365</p> <p>4 which appear to relate to apartment L805.</p> <p>5 (Plaintiff's Exhibit 10, Documents 01:45</p> <p>6 relating to apartment L805 beginning with</p> <p>7 Bates number SP 0365, was so marked for</p> <p>8 identification.)</p> <p>9 Q. Did you ever obtain ownership of</p> <p>10 apartment L805? 01:45</p> <p>11 A. No.</p> <p>12 Q. But you had entered into a contract to</p> <p>13 purchase it?</p> <p>14 A. I don't think -- I didn't enter into a</p> <p>15 contract to purchase it, I don't know if my wife 01:45</p> <p>16 did, but before I continue, let me read this letter</p> <p>17 closer.</p> <p>18 (Pause)</p> <p>19 A. Well, to answer your question, to the</p> <p>20 best of my knowledge I believed I may have had a 01:46</p> <p>21 contract with Ira Keller, whether I did or not, I</p> <p>22 don't know, and whether it was oral or written or</p> <p>23 legally binding, I can't tell you without seeing it.</p> <p>24 Q. If you look at pages 367 through 370 --</p> <p>25 A. Right. 01:46</p>	<p style="text-align: right;">Page 61</p> <p>1 Shainberg</p> <p>2 Q. On the first page of Exhibit 11 it</p> <p>3 appears to be a fax from Cooper Square Realty, Inc.,</p> <p>4 and it says in the second paragraph "The main issue</p> <p>5 is that he was turned down the first time." Had you 01:49</p> <p>6 previously applied to have the co-op apartment</p> <p>7 placed in your name before April of 2001?</p> <p>8 A. I don't recall any of this. May I have</p> <p>9 a minute to read these documents?</p> <p>10 Q. Yes, read the documents. 01:49</p> <p>11 (Pause)</p> <p>12 A. Okay.</p> <p>13 Q. Going back again to page SP 0139, do you</p> <p>14 recall if you had previously applied to have</p> <p>15 apartment L806 placed in your name? 01:50</p> <p>16 A. I don't recall.</p> <p>17 Q. Going to page SP 0141 and continuing to</p> <p>18 the next page, it appears to be a letter from you to</p> <p>19 a Vivian Robinson. Do you recognize this letter?</p> <p>20 A. No. 01:51</p> <p>21 Q. Looking at page 142, is that your</p> <p>22 signature?</p> <p>23 A. I guess I signed it.</p> <p>24 Q. Is it your signature or not?</p> <p>25 A. I'll agree that it's my signature. 01:51</p>

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<p>1 Shainberg</p> <p>2 Q. Now in the last full sentence on page</p> <p>3 141 it says as follows: "I perfectly understand</p> <p>4 that this means that Don West is graciously allowing</p> <p>5 me to skip a step from the certificate transferring 01:51</p> <p>6 to, one, Nuta Shainberg, to two, Nuta Shainberg,</p> <p>7 Joshua Shainberg, administrator, to three, Joshua</p> <p>8 (and wife) Shainberg." Do you know who is Don West?</p> <p>9 A. I think he was an executive of the board</p> <p>10 of directors of the co-op. 01:52</p> <p>11 Q. Does this refresh your recollection as</p> <p>12 to how the property was transferred?</p> <p>13 A. No.</p> <p>14 Q. Do you have any reason that you believe</p> <p>15 that when this letter was written it was not 01:52</p> <p>16 accurate?</p> <p>17 A. I have no reason to believe.</p> <p>18 Q. Now, going to page 142, it says in the</p> <p>19 sentence, "After receiving the certificate with me</p> <p>20 as administrator, I will then give you another 01:52</p> <p>21 completed application to change it officially into</p> <p>22 my (and my wife) name alone." Was it your intention</p> <p>23 that this apartment be transferred to yourself and</p> <p>24 your wife, rather than just placed in your name?</p> <p>25 A. Probably so. 01:53</p>	<p>1 Shainberg</p> <p>2 A. My wife has it.</p> <p>3 Q. But before we get there.</p> <p>4 A. I don't have a copy.</p> <p>5 Q. Are you familiar with what it provides? 01:54</p> <p>6 A. I believe the pre-nuptial agreement was</p> <p>7 that upon our marriage I was going to give this</p> <p>8 apartment to my wife.</p> <p>9 Q. Did you own the apartment at that time?</p> <p>10 A. It looks like I had an interest in the 01:54</p> <p>11 apartment obviously, but I don't know exactly what</p> <p>12 interest I had, whether it was half interest, a</p> <p>13 third interest with my brothers or full interest.</p> <p>14 You're asking me when I signed the pre-nuptial</p> <p>15 agreement in 1998? 01:54</p> <p>16 Q. Yes.</p> <p>17 A. I'm not sure of my ownership interest or</p> <p>18 my --</p> <p>19 Q. The pre-nuptial agreement required you</p> <p>20 to place the full ownership in her. Why did you 01:55</p> <p>21 only give her half?</p> <p>22 A. I have to look at the pre-nuptial</p> <p>23 agreement because possibly part of the pre-nuptial</p> <p>24 agreement stated -- I'm speculating.</p> <p>25 Q. Don't speculate. 01:55</p>
Page 63	Page 65
<p>1 Shainberg</p> <p>2 Q. Did your wife give you any consideration</p> <p>3 for this to occur?</p> <p>4 A. No.</p> <p>5 Q. She didn't pay you anything? 01:53</p> <p>6 A. No.</p> <p>7 Q. What was the reason you decided to put</p> <p>8 half the apartment in her name?</p> <p>9 A. Actually to my knowledge prior to my</p> <p>10 marriage to Laryssa Shainberg, my wife, I believe 01:53</p> <p>11 that it was my intention to put the apartment in its</p> <p>12 entirety in her name based upon an agreement with</p> <p>13 her prior to my marriage to her.</p> <p>14 Q. When were you married to her?</p> <p>15 A. I was married on June 5th, 1998. 01:53</p> <p>16 Q. You said there was a prior agreement</p> <p>17 with her?</p> <p>18 A. Yes.</p> <p>19 Q. What was the nature of that agreement?</p> <p>20 A. Pre-nuptial agreement. 01:54</p> <p>21 Q. Is the pre-nuptial in writing?</p> <p>22 A. Yes.</p> <p>23 Q. Where is that?</p> <p>24 A. My wife has it.</p> <p>25 Q. Do you have it? 01:54</p>	<p>1 Shainberg</p> <p>2 MR. WITHERWAX: Don't speculate.</p> <p>3 Q. You have three lawyers yelling at you</p> <p>4 not to speculate.</p> <p>5 A. I don't know what the pre-nuptial says. 01:55</p> <p>6 MR. GRAUBARD: Mr. Witherwax, I think if</p> <p>7 you could bring the pre-nuptial tomorrow it</p> <p>8 would be useful.</p> <p>9 MR. WITHERWAX: I'm not going to be here</p> <p>10 tomorrow. I don't represent Mrs. Shainberg. 01:55</p> <p>11 MR. GRAUBARD: You're not going to be</p> <p>12 here?</p> <p>13 MR. WITHERWAX: She has her own attorney</p> <p>14 and he can bring that.</p> <p>15 MR. GRAUBARD: I don't know who it is. 01:55</p> <p>16 MR. WITHERWAX: I don't know who either.</p> <p>17 Q. If you could mention to your wife, it</p> <p>18 would be useful if she brought it because it will</p> <p>19 avoid everyone having to make a trip back.</p> <p>20 A. Okay. 01:55</p> <p>21 Q. Thank you.</p> <p>22 MR. GRAUBARD: Since you're not going to</p> <p>23 be here tomorrow we'll keep these</p> <p>24 self-contained so you can attach these</p> <p>25 exhibits to Mr. Shainberg and we'll have a 01:56</p>

Joshua Shainberg

February 27, 2007

Page 74	Page 76
<p>1 Shainberg</p> <p>2 (Plaintiff's Exhibit 14, Letter signed</p> <p>3 by Mr. Shainberg dated February 2, 2003, was</p> <p>4 so marked for identification.)</p> <p>5 Q. Mr. Shainberg, that is your signature? 02:06</p> <p>6 A. Yes.</p> <p>7 Q. And you were requesting that your name</p> <p>8 be taken off the certificate in 2003, is that</p> <p>9 correct?</p> <p>10 A. Yes. 02:06</p> <p>11 MR. GRAUBARD: I'm going to mark as</p> <p>12 Exhibit 15 a letter dated March 29, 2003.</p> <p>13 (Plaintiff's Exhibit 15, Letter dated</p> <p>14 March 29, 2003, was so marked for</p> <p>15 identification.) 02:06</p> <p>16 Q. Mr. Shainberg, Exhibit 15, is that your</p> <p>17 signature?</p> <p>18 A. Yes.</p> <p>19 Q. It says "I am taking all responsibility</p> <p>20 for current and future expenses and costs related to 02:06</p> <p>21 385 Grand Street, apartment L806."</p> <p>22 A. Yes.</p> <p>23 Q. What was the purpose of your writing</p> <p>24 this letter?</p> <p>25 A. I have no clue. 02:07</p>	<p>1 Shainberg</p> <p>2 A. Shares in ICT Technologies.</p> <p>3 Q. How much were those worth?</p> <p>4 A. I don't know.</p> <p>5 Q. If you have any idea? 02:08</p> <p>6 MR. WITHERWAX: If you know.</p> <p>7 Q. If you know, if you don't know say you</p> <p>8 don't know.</p> <p>9 A. I don't know.</p> <p>10 Q. Did you have any other assets other than 02:08</p> <p>11 the shares in ICT Technologies?</p> <p>12 A. Not that I'm aware of.</p> <p>13 MR. GRAUBARD: Mark this now as Exhibit</p> <p>14 16.</p> <p>15 (Plaintiff's Exhibit 16, Single page 02:08</p> <p>16 from statement from Morgan Stanley for month</p> <p>17 ended October 31, 2005, was so marked for</p> <p>18 identification.)</p> <p>19 MR. GRAUBARD: Which is a single page</p> <p>20 from a statement from Morgan Stanley. 02:08</p> <p>21 Q. Mr. Shainberg, this is a single page</p> <p>22 from the Morgan Stanley account for the month ended</p> <p>23 October 31, 2005.</p> <p>24 Now this page shows a total asset value</p> <p>25 in your account of \$1,806,679. 02:09</p>
Page 75	Page 77
<p>1 Shainberg</p> <p>2 Q. Have you taken responsibility for the</p> <p>3 expenses of apartment 806?</p> <p>4 A. I've attempted to.</p> <p>5 Q. What does that mean? 02:07</p> <p>6 A. Well, at the time I wrote this letter,</p> <p>7 it was my intention to contribute, if not totally</p> <p>8 take responsibility for the expenses of this co-op,</p> <p>9 but it didn't work out that way.</p> <p>10 Q. Was this a request of the board of 02:07</p> <p>11 directors to you?</p> <p>12 A. I don't know.</p> <p>13 Q. At the time you wrote this letter in</p> <p>14 March 2003, were you employed?</p> <p>15 A. I was not making any money. 02:07</p> <p>16 Q. You were not making money, did you have</p> <p>17 any assets, you personally?</p> <p>18 A. No, I'm sorry.</p> <p>19 Q. Let's be very clear on this. On March</p> <p>20 29, 2003 were you employed gainfully by anyone? 02:08</p> <p>21 A. No.</p> <p>22 Q. In March of 2003 did you have any</p> <p>23 assets?</p> <p>24 A. I believe, yes.</p> <p>25 Q. What were those assets? 02:08</p>	<p>1 Shainberg</p> <p>2 MR. WITHERWAX: Excuse me, Counsel,</p> <p>3 isn't this part of a previous exhibit?</p> <p>4 MR. GRAUBARD: I'm going to explain</p> <p>5 something in a second. 02:09</p> <p>6 Q. This document came from the co-op board</p> <p>7 files as distinguished from the one that you had</p> <p>8 produced, and this is a monthly statement, not the</p> <p>9 year-end statement. So that's the two distinctions.</p> <p>10 Now, this does show the total asset value of 02:09</p> <p>11 1,806,000.</p> <p>12 A. Okay.</p> <p>13 Q. Do you know how this document ended up</p> <p>14 in the files of the co-op board?</p> <p>15 A. Not really. 02:10</p> <p>16 Q. This is the incorrect amount that was</p> <p>17 caused by the incorrect CUSIP number, is that</p> <p>18 correct?</p> <p>19 A. I'm not sure. I did see a previous</p> <p>20 document. 02:10</p> <p>21 MR. WITHERWAX: He previously answered</p> <p>22 that question. Asked and answered.</p> <p>23 MR. GRAUBARD: He answered the question</p> <p>24 as to the -- I just want to confirm.</p> <p>25 Q. Did you ever have \$1.8 million in stocks 02:10</p>

Condensed Transcript

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff-Judgment
Creditor,

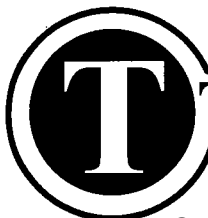
99 Civ.
7357(NG)
(VVP)

-against-

JOSHUA S. SHAINBERG,

Defendant-Judgment
Debtor.

DEPOSITION OF LARYSSA SHAINBERG, taken by
Plaintiff-Judgment Creditor, pursuant to Court Order, held at
Securities and Exchange Commission, Three World Financial
Center, New York, New York, on Wednesday, May 16, 2007,
at 10:20 a.m., before Lisa Rosenfeld, a Shorthand Reporter and
Notary Public within and for the State of New York.



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SEC095

Laryssa Shainberg

May 16, 2007

<p style="text-align: center;">1</p> <p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <hr/> <p>SECURITIES AND EXCHANGE COMMISSION, Plaintiff-Judgment Creditor, 99 Civ. 7357 (NG) (VVP) -against- JOSHUA S. SHAINBERG, Defendant-Judgment Debtor.</p> <hr/> <p>DEPOSITION OF LARYSSA SHAINBERG, taken by Plaintiff-Judgment Creditor, pursuant to Court Order, held at Securities and Exchange Commission, Three World Financial Center, New York, New York, on Wednesday, May 16, 2007, at 10:20 a.m., before Lisa Rosenfeld, a Shorthand Reporter and Notary Public within and for the State of New York.</p>	<p style="text-align: center;">3</p> <p>Shainberg LARYSSA SHAINBERG, having been first duly sworn by Lisa Rosenfeld, a Notary Public for the State of New York, was examined and testified as follows: EXAMINATION BY MR. GRAUBARD: Q. Ms. Shainberg, could you please identify yourself for the record and spell your name? A. My name is Laryssa Shainberg, L-a-r-y-s-s-a, S-h-a-i-n-b-e-r-g. Q. You're represented by counsel, is that correct? A. Yes. MR. GRAUBARD: Counsel, please identify himself. MR. FIDLER: Roger Fidler of Midland Park, New Jersey. MR. GRAUBARD: For the record, before going on the record Mr. Fidler stated that he would like to have the witness read and sign the deposition. Is that correct? MR. FIDLER: That is correct. MR. GRAUBARD: This is a deposition being taken in aid of enforcement against a judgment against a defendant Joshua Shainberg</p>
<p style="text-align: center;">2</p> <p>1 APPEARANCES: 2 3 SECURITIES AND EXCHANGE COMMISSION 4 Attorneys for Plaintiff-Judgment Creditor 5 Three World Financial Center 6 New York, New York 10281-1022 7 8 By: JOHN J. GRAUBARD, ESQ. 9 BOHDAN S. OZARUK, ESQ. 10 11 ROGER L. FIDLER, ESQ. 12 Attorney for the Witness 13 225 Franklin Avenue 14 Midland Park, New Jersey 07432 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">4</p> <p>Shainberg pursuant to 28 USC Section 3105A and the Federal Rules of Civil Procedure 69A. At this point I'm going to mark as Exhibit 19 a copy of a subpoena dated January 18, 2007. (Plaintiff's Exhibit 19, Subpoena dated January 18, 2007, was so marked for identification.) MR. GRAUBARD: I am also going to mark as Exhibit 20 a copy of a notice of deposition of the same date. (Plaintiff's Exhibit 20, Notice of deposition dated January 18, 2007, was so marked for identification.) MR. GRAUBARD: I am also going to mark this is Exhibit 21, a stipulation and order from the District Court which is the order was entered on May 10, 2007. (Plaintiff's Exhibit 21, Stipulation and order entered on May 10, 2007, was so marked for identification.) Q. Mrs. Shainberg, you're appearing here today pursuant to the subpoena, notice of deposition, stipulation and court order in this</p>

1 (Pages 1 to 4)

<p>5</p> <p>1 Shainberg</p> <p>2 matter, is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. The scope of this examination is to</p> <p>5 determine assets and income of Joshua Shainberg that</p> <p>6 are available to satisfy the outstanding judgment.</p> <p>7 Do you know Joshua Shainberg?</p> <p>8 A. Yes.</p> <p>9 Q. Are you related with him?</p> <p>10 A. He's my husband.</p> <p>11 Q. When were you married?</p> <p>12 A. June 5th, '90 -- I have to think how old</p> <p>13 my son is, '98.</p> <p>14 Q. And how long did you know Mr. Shainberg</p> <p>15 before your marriage?</p> <p>16 A. Eight years.</p> <p>17 Q. Did you have any type of a business</p> <p>18 relationship with Mr. Shainberg before your</p> <p>19 marriage?</p> <p>20 A. No.</p> <p>21 Q. Between yourself and Joshua Shainberg,</p> <p>22 who handles the family finances?</p> <p>23 A. Pretty much me. I balance the</p> <p>24 checkbook.</p> <p>25 Q. Have you ever testified before in court?</p>	<p>7</p> <p>1 Shainberg</p> <p>2 notice dated January 18, 2007, was so marked</p> <p>3 for identification.)</p> <p>4 Q. Mrs. Shainberg, have you seen this</p> <p>5 restraining notice before?</p> <p>6 A. No.</p> <p>7 Q. Do you recall receiving a certified</p> <p>8 letter in January 2007?</p> <p>9 A. No, I don't remember.</p> <p>10 Q. Since January 2007, have you transferred</p> <p>11 any property belonging to Mr. Shainberg to anyone</p> <p>12 else?</p> <p>13 A. No.</p> <p>14 Q. Have you received any property from Mr.</p> <p>15 Shainberg since January 2007?</p> <p>16 A. No.</p> <p>17 Q. I'm going to ask some questions about</p> <p>18 your -- general background questions. What is your</p> <p>19 age?</p> <p>20 A. 38.</p> <p>21 Q. Where were you born?</p> <p>22 A. In Lebanon, Virginia.</p> <p>23 Q. What is your Social Security number? I</p> <p>24 will tell you if this ever goes into anything filed</p> <p>25 with the court the Social Security number is</p>
<p>6</p> <p>1 Shainberg</p> <p>2 A. No.</p> <p>3 Q. Have you ever given a deposition before?</p> <p>4 A. No.</p> <p>5 Q. Well, I'm just going to make things go</p> <p>6 easier, just give you a couple of ground rules. The</p> <p>7 first is that you should listen to my question and</p> <p>8 let me finish it because the reporter can't take</p> <p>9 down your answer unless I finish the question. And</p> <p>10 the second is if you are answering a question, it is</p> <p>11 very hard for the reporter to take down that you're</p> <p>12 shaking your head yes or no, so you have to answer</p> <p>13 by saying something, do you understand that?</p> <p>14 A. I understand.</p> <p>15 Q. Is there any reason today that you might</p> <p>16 be impaired in your ability to recall facts or to</p> <p>17 relate the facts that you recall?</p> <p>18 A. Other than time, no.</p> <p>19 Q. Are you taking any medication that might</p> <p>20 affect your ability?</p> <p>21 A. No.</p> <p>22 MR. GRAUBARD: I'd like to mark now as</p> <p>23 Exhibit 22 a restraining notice dated January</p> <p>24 18, 2007.</p> <p>25 (Plaintiff's Exhibit 22, Restraining</p>	<p>8</p> <p>1 Shainberg</p> <p>2 eliminated so it's not something that is ever made</p> <p>3 public.</p> <p>4 A. Thank you [REDACTED]</p> <p>5 Q. Before you were married what was your</p> <p>6 name?</p> <p>7 A. Laryssa Shepherd.</p> <p>8 Q. How do you spell the last name?</p> <p>9 A. S-h-e-p-h-e-r-d.</p> <p>10 Q. Have you ever used any other name?</p> <p>11 A. No.</p> <p>12 Q. Where do you live now?</p> <p>13 A. I live at 385 Grand Street, apartment</p> <p>14 L806.</p> <p>15 Q. Could you describe the apartment?</p> <p>16 A. It's a three-bedroom, one and a half</p> <p>17 bath.</p> <p>18 Q. That is a cooperative apartment?</p> <p>19 A. It's a co-op.</p> <p>20 Q. What floor is it located on?</p> <p>21 A. Eighth floor.</p> <p>22 Q. Is the L the designation for the</p> <p>23 building?</p> <p>24 A. It's the section. There are several</p> <p>25 sections.</p>

2 (Pages 5 to 8)

<p style="text-align: right;">13</p> <p>1 Shainberg</p> <p>2 Q. Do you drive the Honda?</p> <p>3 A. No.</p> <p>4 Q. Do you have --</p> <p>5 A. I have difficulty seeing, I don't drive</p> <p>6 in the city.</p> <p>7 Q. Do you have a driver's license?</p> <p>8 A. Not at this time. I'm trying to get</p> <p>9 one.</p> <p>10 MR. GRAUBARD: Mark this as Exhibit 23.</p> <p>11 (Plaintiff's Exhibit 23, New York State</p> <p>12 identification card, was so marked for</p> <p>13 identification.)</p> <p>14 Q. I'm going to show you Exhibit 23, which</p> <p>15 is a copy of a New York State identification card.</p> <p>16 Is that the identification card that's issued to</p> <p>17 you?</p> <p>18 A. Yes.</p> <p>19 Q. Again that shows that you do not have a</p> <p>20 license to operate, is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Are there any other assets that you have</p> <p>23 of any type?</p> <p>24 A. I'm not sure.</p> <p>25 Q. I'll go through some of them. You don't</p>	<p style="text-align: right;">15</p> <p>1 Shainberg</p> <p>2 Q. In the past ten years have you been</p> <p>3 employed at any time?</p> <p>4 A. Yes.</p> <p>5 Q. Where were you employed?</p> <p>6 A. I'm trying to think, if it's less than</p> <p>7 ten years I was employed with Lanier, L-a-n-i-e-r,</p> <p>8 copier.</p> <p>9 Q. What was your position there?</p> <p>10 A. I was an RSA with the Fortune 500</p> <p>11 accounts.</p> <p>12 Q. What was your annual earnings?</p> <p>13 A. It ranged depending on the year I was</p> <p>14 working there, from 20 to 35,000.</p> <p>15 Q. Any other paid employment in the last</p> <p>16 ten years?</p> <p>17 A. No.</p> <p>18 Q. How long ago did you stop working at</p> <p>19 Lanier?</p> <p>20 A. Just before we got married.</p> <p>21 Q. So you have not worked since your</p> <p>22 marriage?</p> <p>23 A. No.</p> <p>24 Q. I'm going to show you what was</p> <p>25 previously marked at the deposition of Joshua</p>
<p style="text-align: right;">14</p> <p>1 Shainberg</p> <p>2 recall right now.</p> <p>3 A. No, I don't.</p> <p>4 Q. Because these are more general</p> <p>5 questions. Are you holding any property in your</p> <p>6 name that really belongs to Joshua Shainberg?</p> <p>7 A. No.</p> <p>8 Q. Are you holding any property in your</p> <p>9 name that was given to you as a gift by Mr.</p> <p>10 Shainberg?</p> <p>11 A. No.</p> <p>12 Q. Are you holding any property in your</p> <p>13 name that was purchased with any funds or property</p> <p>14 that was given to you by Mr. Shainberg?</p> <p>15 A. No.</p> <p>16 Q. Do you know of anybody else who is</p> <p>17 holding any property that really belongs to Joshua</p> <p>18 Shainberg?</p> <p>19 A. No.</p> <p>20 Q. Do you know of anyone else who is</p> <p>21 holding property that was given to them as a gift by</p> <p>22 Joshua Shainberg?</p> <p>23 A. No.</p> <p>24 Q. Are you employed?</p> <p>25 A. No.</p>	<p style="text-align: right;">16</p> <p>1 Shainberg</p> <p>2 Shainberg as Exhibit 3, your tax returns for the</p> <p>3 year 2006. Why don't you just take a moment and</p> <p>4 look at them before I ask any questions.</p> <p>5 Mrs. Shainberg, have you seen these tax</p> <p>6 returns before?</p> <p>7 A. Yes.</p> <p>8 Q. Going to the second page, the bottom of</p> <p>9 the page, is that your signature?</p> <p>10 A. Yes.</p> <p>11 Q. Going to the third page which is</p> <p>12 Schedule D, this shows a sale of assets from college</p> <p>13 savings funds. Whose name were these college</p> <p>14 savings funds in?</p> <p>15 A. In my children's names.</p> <p>16 Q. Who controlled these funds?</p> <p>17 A. I did.</p> <p>18 Q. And are there any funds left in these</p> <p>19 college savings funds?</p> <p>20 A. No.</p> <p>21 Q. Why did you sell these funds?</p> <p>22 A. To pay the bills.</p> <p>23 Q. What was the source of the money that</p> <p>24 was put in these funds?</p> <p>25 A. This was from savings that I had, I</p>

4 (Pages 13 to 16)

Laryssa Shainberg

May 16, 2007

<p style="text-align: right;">17</p> <p>1 Shainberg</p> <p>2 opened it for my children.</p> <p>3 Q. Was any of the funds in the college</p> <p>4 savings accounts assets given by Mr. Shainberg?</p> <p>5 A. No.</p> <p>6 Q. Do you know anything about an action in</p> <p>7 the United States District Court for the Southern</p> <p>8 District of New York by yourself against Alex</p> <p>9 Goldsmith and others?</p> <p>10 A. Yes.</p> <p>11 Q. What is that lawsuit about?</p> <p>12 A. I don't have the details with me.</p> <p>13 MR. GRAUBARD: Mark Exhibit 24.</p> <p>14 (Plaintiff's Exhibit 24, Summons and</p> <p>15 complaint, was so marked for identification.)</p> <p>16 Q. Mrs. Shainberg, I'm showing you Exhibit</p> <p>17 24, which is a copy of the summons and complaint in</p> <p>18 this matter. Please take a moment and look at these</p> <p>19 documents.</p> <p>20 You've had a chance to review Exhibit</p> <p>21 24, which is the summons and complaint. On the last</p> <p>22 page is that your signature?</p> <p>23 A. It looks like my signature, yes.</p> <p>24 Q. Do you recall having written this</p> <p>25 complaint?</p>	<p style="text-align: right;">19</p> <p>1 Shainberg</p> <p>2 A. Yes.</p> <p>3 Q. How did you come to know Mr. Goldsmith,</p> <p>4 Mr. Fargesen, Mr. Haas and EH&P Investments?</p> <p>5 A. Goldsmith was introduced to me by other</p> <p>6 people I had known and he introduced me to Erwin</p> <p>7 Haas in Switzerland.</p> <p>8 Q. Did you give these shares, I'll call</p> <p>9 them the defendants in this action as a group just</p> <p>10 so you don't have to be specific, did you give them</p> <p>11 shares to invest or control or hold or put them in</p> <p>12 an account?</p> <p>13 A. There were various reasons. We weren't</p> <p>14 sure exactly at the time which way we wanted -- I</p> <p>15 wanted to use the shares.</p> <p>16 Q. Then they took these shares to</p> <p>17 Switzerland?</p> <p>18 A. Yes.</p> <p>19 Q. Where did you get these shares from?</p> <p>20 A. I don't recall where all of the shares</p> <p>21 came from.</p> <p>22 Q. Did you purchase them on the open</p> <p>23 market?</p> <p>24 A. I don't recall at this time.</p> <p>25 Q. Do you recall if they were given to you</p>
<p style="text-align: right;">18</p> <p>1 Shainberg</p> <p>2 A. Yes.</p> <p>3 Q. Did you prepare the complaint or did Mr.</p> <p>4 Shainberg prepare it?</p> <p>5 A. I had help in preparing it.</p> <p>6 Q. You had help in preparing it?</p> <p>7 A. Yes.</p> <p>8 Q. On the -- well, I guess it's the second</p> <p>9 page of the complaint which is the third page of the</p> <p>10 package, you talk about shares of ICT Technologies,</p> <p>11 Inc. that you owned in February 2005. Did you own</p> <p>12 such shares?</p> <p>13 A. Yes, I did.</p> <p>14 Q. How much were those shares worth?</p> <p>15 A. I would have to look back in my</p> <p>16 accounts, I'm not sure of the value at the time.</p> <p>17 Q. What happened to these shares?</p> <p>18 A. Once they were transferred to</p> <p>19 Switzerland we were never given them back.</p> <p>20 Q. When you say transferred to Switzerland,</p> <p>21 how were they transferred to Switzerland?</p> <p>22 A. I don't have how the account number or</p> <p>23 the structure of the account here with me today.</p> <p>24 Q. Let's start with that. Did you have</p> <p>25 sole ownership of these shares of ICT?</p>	<p style="text-align: right;">20</p> <p>1 Shainberg</p> <p>2 by your husband?</p> <p>3 A. I do not recall, sorry.</p> <p>4 Q. Do you claim that you still own these</p> <p>5 shares?</p> <p>6 A. Yes.</p> <p>7 Q. And do you claim that you own any</p> <p>8 proceeds from these shares?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know of any written documents</p> <p>11 that relate to these shares?</p> <p>12 A. Written documents?</p> <p>13 Q. Yes, letters, correspondence, account</p> <p>14 statements.</p> <p>15 A. As far as my ownership or as far as my</p> <p>16 request?</p> <p>17 Q. Let's start with your ownership.</p> <p>18 A. I would have to look and see what I have</p> <p>19 in writing regarding these shares.</p> <p>20 Q. And documents relating to the transfer</p> <p>21 of these shares to the defendants in this action?</p> <p>22 A. I can look to see if I still have the</p> <p>23 documents. I should.</p> <p>24 Q. If you did not have the documents how</p> <p>25 would you be able to prove your case?</p>

5 (Pages 17 to 20)

<p style="text-align: right;">29</p> <p>1 Shainberg</p> <p>2 as an exhibit the premarital or prenuptial</p> <p>3 agreement.</p> <p>4 MR. GRAUBARD: That's what I was going</p> <p>5 to get to.</p> <p>6 MR. FIDLER: Do you have it?</p> <p>7 MR. GRAUBARD: I do not have it. Let me</p> <p>8 ask a couple of more questions and then I'll</p> <p>9 get to it.</p> <p>10 MR. FIDLER: That resolves a lot.</p> <p>11 MR. GRAUBARD: I want to ask some more</p> <p>12 questions before I get to it.</p> <p>13 Q. Mrs. Shainberg, did you have any -- did</p> <p>14 you work -- let me rephrase that, I tripped up over</p> <p>15 my own question. In connection with the transfer of</p> <p>16 ownership, did you do any of the filing of papers or</p> <p>17 anything or did your husband do it?</p> <p>18 A. My husband.</p> <p>19 Q. And did his brother Abe assist him in</p> <p>20 that?</p> <p>21 A. I don't remember.</p> <p>22 Q. His brother Abe is an attorney, is that</p> <p>23 correct?</p> <p>24 A. Yes, he is an attorney.</p> <p>25 Q. Now I'm going to ask, you entered into a</p>	<p style="text-align: right;">31</p> <p>1 Shainberg</p> <p>2 remember her name. Jennifer, I believe, but I don't</p> <p>3 remember her name.</p> <p>4 Q. And the first signature is Mr.</p> <p>5 Shainberg?</p> <p>6 A. The first is Joshua, yes.</p> <p>7 Q. And the second one is yours?</p> <p>8 A. Yes.</p> <p>9 Q. Going to the first page, you say</p> <p>10 "Whereas both parties have consulted independent</p> <p>11 counsel of their own choosing," did you have an</p> <p>12 attorney?</p> <p>13 A. I don't remember.</p> <p>14 Q. Do you know if Mr. Shainberg had an</p> <p>15 attorney?</p> <p>16 A. I don't remember.</p> <p>17 Q. The first numbered paragraph says</p> <p>18 "Joshua Shainberg should transfer after marriage the</p> <p>19 interest to the cooperative," I'll leave the address</p> <p>20 out. Does that mean it's transferred to you?</p> <p>21 A. Yes, that was the intention.</p> <p>22 Q. The second paragraph also refers to the</p> <p>23 transfer of this apartment, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Paragraph 6 says that you come into the</p>
<p style="text-align: right;">30</p> <p>1 Shainberg</p> <p>2 premarital agreement with Mr. Shainberg before you</p> <p>3 were married?</p> <p>4 A. Yes.</p> <p>5 Q. Did you bring a copy with you?</p> <p>6 MR. FIDLER: Yes, she did.</p> <p>7 MR. GRAUBARD: I will make copies before</p> <p>8 I mark it.</p> <p>9 Off the record.</p> <p>10 (Discussion off the record)</p> <p>11 (Plaintiff's Exhibit 26, Premarital</p> <p>12 agreement, was so marked for identification.)</p> <p>13 Q. I'm showing you Exhibit 26. Is this the</p> <p>14 premarital agreement that you were referring to?</p> <p>15 A. Yes.</p> <p>16 Q. Going to the last page of the agreement,</p> <p>17 is that your signature at the bottom?</p> <p>18 A. Yes.</p> <p>19 Q. Is that Mr. Shainberg's signature above?</p> <p>20 A. Yes.</p> <p>21 Q. On the page before that there appear to</p> <p>22 be four signatures. Can you identify who the four</p> <p>23 signatures are?</p> <p>24 A. The first witness is a friend of mine</p> <p>25 Judit Szaloki and the second witness, I don't</p>	<p style="text-align: right;">32</p> <p>1 Shainberg</p> <p>2 marriage with substantial assets. What were those</p> <p>3 assets?</p> <p>4 A. At the time I was working for Lanier, so</p> <p>5 I had my own savings and salary. I also had</p> <p>6 collectibles.</p> <p>7 Q. I notice that there was a paragraph 7</p> <p>8 that was crossed out.</p> <p>9 A. Yes.</p> <p>10 Q. So you did not make any transfer to Mr.</p> <p>11 Shainberg?</p> <p>12 A. No.</p> <p>13 Q. What was the date of your marriage?</p> <p>14 A. June 5th.</p> <p>15 Q. 1990 --</p> <p>16 A. '98.</p> <p>17 Q. '98. So this is a year and a half</p> <p>18 before your marriage?</p> <p>19 A. Yes. There was a delay.</p> <p>20 Q. A delay in your marriage?</p> <p>21 A. Yes.</p> <p>22 Q. In the first paragraph on page 1, you're</p> <p>23 referred to as Laryssa Shepherd. Later on -- and</p> <p>24 you're also referred to -- but then you say in</p> <p>25 paragraph 6, Laryssa Shainberg comes into the</p>

8 (Pages 29 to 32)

Laryssa Shainberg

May 16, 2007

<p style="text-align: right;">33</p> <p>1 Shainberg</p> <p>2 marriage with substantial assets. Do you know why</p> <p>3 you put Laryssa Shainberg in paragraph 6?</p> <p>4 A. I guess it was wishful thinking. I</p> <p>5 didn't catch that. I haven't seen this document in</p> <p>6 a very long time.</p> <p>7 Q. Whose idea was it to have this</p> <p>8 premarital agreement?</p> <p>9 A. It was my husband's. I was actually on</p> <p>10 my way out. I had been with him for eight years. I</p> <p>11 didn't see there was a future and this was a grand</p> <p>12 gesture.</p> <p>13 Q. Did you discuss this with anyone else</p> <p>14 before you signed it?</p> <p>15 A. No.</p> <p>16 Q. Do you know if Mr. Shainberg discussed</p> <p>17 it with anyone else?</p> <p>18 A. I don't know. I'm assuming he discussed</p> <p>19 it with his brothers because they had interest in</p> <p>20 the apartment.</p> <p>21 Q. Do you know who typed this document?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you know if you typed it?</p> <p>24 A. No, I didn't.</p> <p>25 Q. You did not type it?</p>	<p style="text-align: right;">35</p> <p>1 Shainberg</p> <p>2 transferred.</p> <p>3 (Plaintiff's Exhibit 27, Consent from</p> <p>4 Seward Park Housing Corporation dated October</p> <p>5 16, 2001, was so marked for identification.)</p> <p>6 Q. I am going to show you Exhibit 27, which</p> <p>7 is a consent from Seward Park Housing Corporation</p> <p>8 dated October 16, 2001.</p> <p>9 A. The date does not seem correct as far as</p> <p>10 the apartment being transferred into my name because</p> <p>11 I remember being pregnant with Jonah when we signed</p> <p>12 the papers.</p> <p>13 Q. I'm just showing you documents. Here it</p> <p>14 says the transfer was into your name and Joshua's</p> <p>15 name?</p> <p>16 A. Yes. That was a required step by the</p> <p>17 co-op board.</p> <p>18 Q. In other words they wouldn't let it go</p> <p>19 straight to your name?</p> <p>20 A. They would not.</p> <p>21 Q. Do you have anything from the co-op</p> <p>22 board that says that?</p> <p>23 THE WITNESS: Roger, were you given --</p> <p>24 MR. FIDLER: No.</p> <p>25 A. I may have, let me see. I do have</p>
<p style="text-align: right;">34</p> <p>1 Shainberg</p> <p>2 A. No.</p> <p>3 Q. Do you know where the original of this</p> <p>4 is?</p> <p>5 A. I believe it's in a safety deposit box</p> <p>6 with our other important documents.</p> <p>7 Q. On the last page which says Exhibit A,</p> <p>8 it says you own without obligation or lien \$150,000</p> <p>9 worth of art and \$150,000 worth of stamps, is that</p> <p>10 correct -- was that correct?</p> <p>11 A. That was correct, yes.</p> <p>12 Q. It says Mr. Shainberg owns art and other</p> <p>13 collectibles valued at \$50,000, is that correct?</p> <p>14 A. I believe so.</p> <p>15 Q. Do you know what happened to Mr.</p> <p>16 Shainberg's art?</p> <p>17 A. He has sold pieces, I don't know which</p> <p>18 ones or how much, but he has liquidated some.</p> <p>19 Q. This agreement states that Mr. Shainberg</p> <p>20 would put the entire apartment in your name, is that</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. In 2001 did you obtain the entire</p> <p>24 apartment in your name?</p> <p>25 A. I don't recall the date it was</p>	<p style="text-align: right;">36</p> <p>1 Shainberg</p> <p>2 letters regarding back and forth between management</p> <p>3 and myself and my husband.</p> <p>4 Q. But it would have been the co-op board</p> <p>5 who required that it be partially in his name?</p> <p>6 A. Yes.</p> <p>7 Q. I don't need the letter.</p> <p>8 A. They made it very difficult.</p> <p>9 Q. I'm not going to comment on New York</p> <p>10 City co-op boards but those of us who live here know</p> <p>11 about them.</p> <p>12 A. Yes.</p> <p>13 MR. GRAUBARD: I am going to next mark a</p> <p>14 copy of share certificate number 2002 for 39</p> <p>15 shares.</p> <p>16 (Plaintiff's Exhibit 28, Share</p> <p>17 certificate number 2002, was so marked for</p> <p>18 identification.)</p> <p>19 MR. GRAUBARD: I'm going to mark several</p> <p>20 at a time, so mark Exhibit 29, a receipt and</p> <p>21 acknowledgment dated October 16, 2001.</p> <p>22 (Plaintiff's Exhibit 29, Receipt and</p> <p>23 acknowledgment dated October 16, 2001, was so</p> <p>24 marked for identification.)</p> <p>25 MR. GRAUBARD: Exhibit 30 a proprietary</p>

9 (Pages 33 to 36)

<p style="text-align: right;">37</p> <p>1 Shainberg</p> <p>2 lease dated final signature October 16th,</p> <p>3 2001.</p> <p>4 (Plaintiff's Exhibit 30, Proprietary</p> <p>5 lease dated final signature October 16th,</p> <p>6 2001, was so marked for identification.)</p> <p>7 Q. Between the consent, the receipt, the</p> <p>8 stock certificate and the proprietary lease, Mrs.</p> <p>9 Shainberg, does this refresh your recollection that</p> <p>10 you received partial title to the apartment in</p> <p>11 October 2001?</p> <p>12 A. Yes.</p> <p>13 Q. Are you aware that the Securities and</p> <p>14 Exchange Commission had brought suit against Mr.</p> <p>15 Shainberg in 1999?</p> <p>16 A. I'm not familiar with the date, I don't</p> <p>17 know the date.</p> <p>18 Q. But you do know they brought suit at</p> <p>19 some point?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know if that lawsuit was before</p> <p>22 or after the date that you received partial title to</p> <p>23 this apartment?</p> <p>24 A. I'm not sure.</p> <p>25 Q. Other than the premarital agreement</p>	<p style="text-align: right;">39</p> <p>1 Shainberg</p> <p>2 Q. I am going to show you Exhibit 12</p> <p>3 previously marked, which was another letter from you</p> <p>4 to the board of directors and, was this -- is this</p> <p>5 your signature?</p> <p>6 A. Yes.</p> <p>7 Q. I'm going to ask you some questions on</p> <p>8 this letter now. Toward the middle of the paragraph</p> <p>9 it says "Since the middle of 2002 I have worked with</p> <p>10 Europhone in Elmsford, New York." Is that statement</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. You've done mostly marketing</p> <p>14 consultation with them, is that correct?</p> <p>15 A. Consulting, yes.</p> <p>16 Q. It says you received a W-2 form for</p> <p>17 that?</p> <p>18 A. I don't remember if I did.</p> <p>19 Q. It says here "Nevertheless, I am</p> <p>20 enclosing a copy of the W-2 IRS form at that time."</p> <p>21 A. Right, I believe I did, yes.</p> <p>22 Q. So did you have any employment after</p> <p>23 your marriage?</p> <p>24 A. Consulting, I wasn't sure if that</p> <p>25 counted as --</p>
<p style="text-align: right;">38</p> <p>1 Shainberg</p> <p>2 that's been marked, did you give any funds or other</p> <p>3 consideration to Joshua Shainberg for one half</p> <p>4 interest in the apartment?</p> <p>5 A. I gave him four years of conversion. I</p> <p>6 spent four years to convert to Judaism.</p> <p>7 Q. So you had a rather large investment?</p> <p>8 A. Yes, I did.</p> <p>9 Q. I am going to show you what was marked</p> <p>10 previously as Exhibit 14, which is a letter from Mr.</p> <p>11 Shainberg to the Seward Park Housing Corporation in</p> <p>12 February 2003. Did there come a time in 2003 when</p> <p>13 the entire apartment was transferred to your name?</p> <p>14 A. Yes.</p> <p>15 Q. What was the reason for that second</p> <p>16 transfer?</p> <p>17 A. It was the completion of his promise to</p> <p>18 transfer the apartment to me.</p> <p>19 Q. Did you remind him that he had to</p> <p>20 complete his transfer?</p> <p>21 A. Absolutely.</p> <p>22 Q. I'll show you what was marked as Exhibit</p> <p>23 13, which is a letter from you to the Seward Park</p> <p>24 Housing Corporation. Is that your signature?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">40</p> <p>1 Shainberg</p> <p>2 Q. Let's go back and ask the original</p> <p>3 question to try and get it accurate.</p> <p>4 A. Okay.</p> <p>5 Q. Since your marriage have you earned any</p> <p>6 income either as an employee or as a consultant or</p> <p>7 otherwise?</p> <p>8 A. Yes, doing consulting work.</p> <p>9 Q. Who have you done consulting work for?</p> <p>10 A. I've done consulting work with</p> <p>11 Europhone, Eurospeed, which are both related</p> <p>12 companies. I do catering and translating.</p> <p>13 Q. How much do you earn from those</p> <p>14 activities?</p> <p>15 A. I'd have to look at my finances.</p> <p>16 Q. Do you have any approximate idea?</p> <p>17 A. No, it goes in, it goes out,</p> <p>18 unfortunately.</p> <p>19 Q. I am now going to show you what was</p> <p>20 previously marked as Exhibit 17, which is a</p> <p>21 financial statement that was presented to the board</p> <p>22 of directors in connection with the second transfer.</p> <p>23 I'd like you first to look at the first two pages.</p> <p>24 Is that your signature at the bottom of the second</p> <p>25 page?</p>

10 (Pages 37 to 40)

Laryssa Shainberg

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<p style="text-align: right;">41</p> <p>1 Shainberg</p> <p>2 A. Yes.</p> <p>3 Q. Who prepared the financial statement?</p> <p>4 Let me start, do you know whose writing it is?</p> <p>5 A. No, I do not remember.</p> <p>6 Q. Is it your writing?</p> <p>7 A. It doesn't appear to be.</p> <p>8 Q. Do you know who prepared this?</p> <p>9 A. I don't remember.</p> <p>10 Q. The first item on the assets side says</p> <p>11 "\$456,000 cash in banks," is that correct? That was</p> <p>12 your money?</p> <p>13 A. That was my money.</p> <p>14 Q. In 2003. What happened to that money?</p> <p>15 A. That was used to cover family expenses</p> <p>16 until now. That's what we've lived on.</p> <p>17 Q. It shows \$80,000 of investments in</p> <p>18 stocks and bonds which are detailed on the second</p> <p>19 page. Is that accurate as to what you owned in</p> <p>20 2003?</p> <p>21 A. Yes.</p> <p>22 Q. What happened to that?</p> <p>23 A. They've all been liquidated.</p> <p>24 Q. The real estate owned is the co-op</p> <p>25 apartment, is that correct?</p>	<p style="text-align: right;">43</p> <p>1 Shainberg</p> <p>2 page of SP 0351.</p> <p>3 MR. FIDLER: At the bottom of which</p> <p>4 page?</p> <p>5 MR. GRAUBARD: I'm going to the page</p> <p>6 that has it at the bottom to identify the</p> <p>7 page.</p> <p>8 Q. A letter from Global Trading. Do you</p> <p>9 know where Global Trading is?</p> <p>10 A. No.</p> <p>11 Q. Do you know who Mr. Hayden Doyle is?</p> <p>12 A. I believe I've met him.</p> <p>13 Q. Did you ask Mr. Doyle to prepare this</p> <p>14 letter?</p> <p>15 A. I don't remember.</p> <p>16 Q. Next page is a letter from Ana Asperas</p> <p>17 at Europhone, do you know who she is?</p> <p>18 A. Yes.</p> <p>19 Q. Who is she?</p> <p>20 A. She works with Vasilios Koutsoubinas,</p> <p>21 his right hand.</p> <p>22 Q. Who is Mr. Koutsoubinas?</p> <p>23 A. He owns Europhone.</p> <p>24 Q. Did Mr. Shainberg ever work for</p> <p>25 Europhone?</p>
<p style="text-align: right;">42</p> <p>1 Shainberg</p> <p>2 A. Correct.</p> <p>3 Q. Then it says personal property in</p> <p>4 furniture \$45,000, what is that?</p> <p>5 A. Furniture in the house.</p> <p>6 Q. According to this Europhone, you</p> <p>7 received a total of \$20,000 bonus and commission?</p> <p>8 A. That's about correct.</p> <p>9 Q. What were the source of the funds that</p> <p>10 were in these bank accounts in 2003?</p> <p>11 A. In the assets?</p> <p>12 Q. Yes.</p> <p>13 A. It should have been savings and various</p> <p>14 sales.</p> <p>15 Q. Savings from where?</p> <p>16 A. Savings from my employment previously.</p> <p>17 Q. Were all these funds from your</p> <p>18 employment only or your spouse's?</p> <p>19 A. Not only employment, no.</p> <p>20 Q. They're all from your sources?</p> <p>21 A. Yes.</p> <p>22 Q. None of these funds came from Mr.</p> <p>23 Shainberg?</p> <p>24 A. No.</p> <p>25 Q. There is a number at the bottom of the</p>	<p style="text-align: right;">44</p> <p>1 Shainberg</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. Do you know if Mr. Shainberg ever worked</p> <p>4 with Mr. Koutsoubinas?</p> <p>5 A. He helped him, yes.</p> <p>6 Q. Did he receive any payments from Mr.</p> <p>7 Koutsoubinas?</p> <p>8 A. You would have to ask him.</p> <p>9 Q. The next page is on the letterhead of</p> <p>10 First Romanian American Congregation.</p> <p>11 A. Yes.</p> <p>12 Q. Written by Rabbi Gershon Spiegel?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know Rabbi Spiegel?</p> <p>15 A. Yes.</p> <p>16 Q. Who is he?</p> <p>17 A. He's the rabbi of the shul I attend.</p> <p>18 Q. I'm going to show you what was</p> <p>19 previously marked Exhibit 15, which is a letter</p> <p>20 dated March 29, 2003 from Joshua Shainberg. Have</p> <p>21 you ever seen this letter before?</p> <p>22 A. Yes.</p> <p>23 Q. Why did Mr. Shainberg provide this</p> <p>24 letter?</p> <p>25 A. They refused to transfer the apartment</p>

11 (Pages 41 to 44)

45

1 Shainberg

2 to my name unless he acknowledged responsibility.

3 Q. At this time, which is March 2003, was

4 Mr. Shainberg employed?

5 A. Not to my knowledge.

6 Q. Did Mr. Shainberg have any assets?

7 A. I'm not sure.

8 Q. Do you know why they wanted him to take

9 responsibility at that point?

10 A. Just another hoop to jump through. Like

11 I said, they made it very difficult for us to

12 transfer the apartment, including suing us twice for

13 the same dog.

14 Q. Why did they sue you for a dog?

15 A. There are no dogs allowed in the

16 apartment but we had had the dog for three years and

17 they sued us once, we won. They came back and when

18 we tried to change the apartment to my name, they

19 sued us a second time, same dog. So it was a

20 nuisance lawsuit and we received legal funds back

21 from the co-op, and at that point they finally gave

22 us the apartment.

23 Q. That was on the basis of the New York

24 City rule that if you have a dog for one year and

25 it's known to the management --

46

1 Shainberg

2 A. Yes.

3 Q. -- you are therefore allowed to keep it?

4 A. Actually it's 90 days.

5 Q. 90 days?

6 A. Yes. I know that law very, very well.

7 Q. I am going to mark a couple of documents

8 now and you can look at them in a group.

9 MR. GRAUBARD: Exhibit 31 is a stock

10 certificate 2695.

11 (Plaintiff's Exhibit 31, Stock

12 certificate 2695, was so marked for

13 identification.)

14 MR. GRAUBARD: Exhibit 32 is proprietary

15 lease dated April 3, 2003.

16 (Plaintiff's Exhibit 32, Proprietary

17 lease dated April 3, 2003, was so marked for

18 identification.)

19 Q. Looking at the 2003 stock certificate

20 and proprietary lease, this is when the co-op was

21 placed solely in your name, is that correct?

22 A. Correct.

23 Q. And it has remained solely in your name

24 since then?

25 A. Yes.

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1 Shainberg

2 Q. Since it's been placed solely in your

3 name in 2003, has Mr. Shainberg paid anything toward

4 the upkeep of the co-op?

5 A. No.

6 Q. I'm going to show you now what was

7 previously marked Exhibit 18. Start with the first

8 cover page which has SP 0432 on the bottom. Is that

9 your signature?

10 A. Yes.

11 Q. This is dated December 7, 2005

12 requesting approval of an equity loan on your co-op?

13 A. Yes.

14 Q. What was the reason for requesting this

15 equity loan?

16 A. To purchase a vacation home.

17 Q. Page SP 0433 is an asset and liability

18 statement, is that your signature?

19 A. Yes.

20 Q. In this one you have cash in bank

21 \$2,000, was that correct as of December 2005?

22 A. At that time, yes.

23 Q. Then securities \$57,000?

24 A. I would have to check my accounts.

25 Q. Then it says oil terminal

48

1 Shainberg

2 \$2-1/2 million, what is that oil terminal?

3 A. That's the JFK Oil Terminal.

4 Q. Let's talk at this point now about JFK

5 Oil Terminal. As of December 2005 what was the JFK

6 Oil Terminal?

7 A. It was a non-functioning oil terminal

8 for storage of heating oil.

9 Q. When you say non-functioning, there was

10 no storage actually going on?

11 A. No.

12 Q. Where is the oil terminal located?

13 A. In Berwick, Pennsylvania.

14 Q. Can you describe what the property of

15 the oil terminal is?

16 A. There are large storage tanks and

17 previously there have been a connection to the

18 Sunoco pipeline on the property.

19 Q. Is there a connection now?

20 A. They took the hardware out.

21 Q. What is physically located on the site,

22 oil tanks?

23 A. Oil tanks.

24 Q. Have they ever been used to your

25 knowledge?

12 (Pages 45 to 48)

<p style="text-align: right;">49</p> <p>1 Shainberg</p> <p>2 A. They have been used.</p> <p>3 Q. How recently?</p> <p>4 A. About a year ago we checked the pumps</p> <p>5 and had them updated.</p> <p>6 Q. How do you come to the value of</p> <p>7 \$2-1/2 million?</p> <p>8 A. At the time that was what it was</p> <p>9 represented to me as potential value.</p> <p>10 Q. Who represented that to you?</p> <p>11 A. The -- I don't have the name of the</p> <p>12 company that owned it previously. That was the</p> <p>13 potential value.</p> <p>14 Q. How did you obtain ownership of JFK</p> <p>15 terminal?</p> <p>16 A. I purchased it with stock.</p> <p>17 Q. How much did you pay for it?</p> <p>18 A. I don't have the amount of shares that I</p> <p>19 transferred for it.</p> <p>20 Q. What were they shares of?</p> <p>21 A. ICT.</p> <p>22 Q. Where did you get those shares from?</p> <p>23 A. Those shares came from my brother-in-law</p> <p>24 Abe Shainberg, who owed me repayment of debt.</p> <p>25 Q. So in exchange for a repayment of debt</p>	<p style="text-align: right;">51</p> <p>1 Shainberg</p> <p>2 A. He has put feelers out to see if various</p> <p>3 companies are interested in coupling with our</p> <p>4 corporation to make it operational.</p> <p>5 Q. Also you show art at \$75,000, what is</p> <p>6 that?</p> <p>7 A. That's what I actually held onto since</p> <p>8 our marriage.</p> <p>9 Q. Do you still own that art?</p> <p>10 A. I still own a few pieces, yes. I have</p> <p>11 sold some.</p> <p>12 Q. It shows stamps at \$1-1/2 million?</p> <p>13 A. That's the value. They haven't been</p> <p>14 sold. So I don't know if the market would still</p> <p>15 bear that.</p> <p>16 Q. But that was what you felt it was worth</p> <p>17 at the time?</p> <p>18 A. At the time.</p> <p>19 Q. How did you determine that value?</p> <p>20 A. That was what was represented when I</p> <p>21 obtained the stamps.</p> <p>22 Q. On page SP 0435, is it income statement</p> <p>23 and expense statement? You show business income for</p> <p>24 \$36,000?</p> <p>25 A. Uh-huh.</p>
<p style="text-align: right;">50</p> <p>1 Shainberg</p> <p>2 from Abe Shainberg you received shares of ICT that</p> <p>3 you then transferred to the person you purchased the</p> <p>4 oil terminal from?</p> <p>5 A. Yes.</p> <p>6 Q. Was this owned by a corporation of some</p> <p>7 kind?</p> <p>8 A. Yes. I'd have to look at the name.</p> <p>9 Q. Let me just say there is a corporation.</p> <p>10 A. There is a corporation.</p> <p>11 Q. Who owns the stock in the corporation?</p> <p>12 A. I would have to see.</p> <p>13 Q. Do you own stock in it?</p> <p>14 A. I should be the owner. I would have to</p> <p>15 look.</p> <p>16 Q. Does Mr. Shainberg own stock in it?</p> <p>17 A. No.</p> <p>18 Q. Is Mr. Shainberg employed --</p> <p>19 A. No.</p> <p>20 Q. -- by that company?</p> <p>21 A. No, he has consulted.</p> <p>22 Q. He's a consultant, does he receive any</p> <p>23 funds from that company?</p> <p>24 A. No.</p> <p>25 Q. As a consultant, what does he do?</p>	<p style="text-align: right;">52</p> <p>1 Shainberg</p> <p>2 Q. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. What was that business income from?</p> <p>5 A. I am not a hundred percent sure exactly</p> <p>6 where it came from. Some did come from JFK, others</p> <p>7 from my catering business.</p> <p>8 Q. Going to the page SP 0440. Have you</p> <p>9 seen this letter before?</p> <p>10 A. Yes.</p> <p>11 Q. Is Joshua Shainberg the executive vice</p> <p>12 president of JFK?</p> <p>13 A. No.</p> <p>14 Q. Does he hold any position with JFK as an</p> <p>15 officer?</p> <p>16 A. No, I gave him that title. He was a</p> <p>17 consultant, I gave him that title. It's really not</p> <p>18 a functioning title.</p> <p>19 Q. It says here you're the hundred percent</p> <p>20 owner and president, is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. It says the facility handles in excess</p> <p>23 of 2-1/2 million gallons of heating oil, is that</p> <p>24 correct?</p> <p>25 A. That should say potentially handles.</p>

13 (Pages 49 to 52)

<p style="text-align: right;">53</p> <p>1 Shainberg</p> <p>2 That word was -- should have been in there.</p> <p>3 Q. It says you're paid \$36,000 a year?</p> <p>4 A. That's estimated.</p> <p>5 Q. Attached to that there's a bank</p> <p>6 statement, it's the bank statement for JFK Oil</p> <p>7 Terminal Corp.?</p> <p>8 A. Yes.</p> <p>9 Q. That's the account -- is that the</p> <p>10 account that you presently use as your bank account?</p> <p>11 A. It's the account that's used for</p> <p>12 business.</p> <p>13 Q. You said there's also an account at Bank</p> <p>14 of America. Do you use any bank account for your</p> <p>15 personal business?</p> <p>16 A. Personal. No.</p> <p>17 Q. How do you pay your bills?</p> <p>18 A. Well, right now that's a question.</p> <p>19 Q. Not how meaning in the how of where do</p> <p>20 you get the money from, but how physically do you</p> <p>21 pay them? Do you bring cash over?</p> <p>22 A. I'm sorry?</p> <p>23 Q. Money orders?</p> <p>24 A. Cash.</p> <p>25 Q. If you sold assets they would pay you by</p>	<p style="text-align: right;">55</p> <p>1 Shainberg</p> <p>2 from Emigrant Mortgage Company, was so marked</p> <p>3 for identification.)</p> <p>4 Q. Exhibit 33, Mrs. Shainberg, is a</p> <p>5 resource letter from the Emigrant Mortgage Company.</p> <p>6 Is that your signature on the bottom of the first</p> <p>7 page?</p> <p>8 A. Yes.</p> <p>9 Q. This resource letter indicates on the</p> <p>10 last page that they estimate that your total monthly</p> <p>11 payment on the mortgage would be approximately</p> <p>12 \$3,113.29 including the homeowner's -- including the</p> <p>13 maintenance fee?</p> <p>14 A. Yes.</p> <p>15 Q. Is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. Where do you get the funds to make that</p> <p>18 payment from?</p> <p>19 A. I do catering.</p> <p>20 Q. How much do you make from catering?</p> <p>21 A. It depends on how many jobs I have in a</p> <p>22 week.</p> <p>23 Q. Is there a reason, Mrs. Shainberg, that</p> <p>24 you had the mortgage on your co-op apartment rather</p> <p>25 than on the vacation home you were purchasing?</p>
<p style="text-align: right;">54</p> <p>1 Shainberg</p> <p>2 check ordinarily, is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. And where would you get the cash for the</p> <p>5 check?</p> <p>6 A. Or they could also pay me cash. One</p> <p>7 correction, I do also pay my bills with my credit</p> <p>8 card.</p> <p>9 Q. Where is your credit card?</p> <p>10 A. I'm sorry?</p> <p>11 Q. Which institution holds your credit</p> <p>12 card?</p> <p>13 A. Capital One.</p> <p>14 Q. Is Joshua Shainberg a signatory on the</p> <p>15 card?</p> <p>16 A. No.</p> <p>17 Q. Do you know if Joshua Shainberg is a</p> <p>18 signatory on any cards?</p> <p>19 A. Not to my knowledge.</p> <p>20 Q. Is Joshua -- going back now a little</p> <p>21 bit, is Joshua Shainberg a signatory on the lease</p> <p>22 for the Honda Odyssey?</p> <p>23 A. No.</p> <p>24 MR. GRAUBARD: Mark this as Exhibit 33.</p> <p>25 (Plaintiff's Exhibit 33, Resource letter</p>	<p style="text-align: right;">56</p> <p>1 Shainberg</p> <p>2 A. Yes, it was easier to do. The paperwork</p> <p>3 was easier, we already had the apartment. This was</p> <p>4 what was represented to me by the mortgage broker.</p> <p>5 He discussed the options and said that this would be</p> <p>6 the easiest route to go.</p> <p>7 MR. GRAUBARD: Can you mark this as</p> <p>8 Exhibit 34, a deed dated February 8th, 2006.</p> <p>9 (Plaintiff's Exhibit 34, Deed dated</p> <p>10 February 8th, 2006, was so marked for</p> <p>11 identification.)</p> <p>12 Q. Mrs. Shainberg, I'm showing you</p> <p>13 documents from the Sullivan County clerk. There's a</p> <p>14 cover page and deed to property located in Lock</p> <p>15 Sheldrake, New York. Is this the deed to your</p> <p>16 vacation house?</p> <p>17 A. Yes.</p> <p>18 Q. Could you describe your vacation house?</p> <p>19 A. It's an attached townhouse end unit, two</p> <p>20 floors with three to four bedrooms, four baths.</p> <p>21 Q. According to these documents the</p> <p>22 purchase price was \$175,000?</p> <p>23 A. Correct.</p> <p>24 Q. According to the mortgage documents your</p> <p>25 mortgage was \$250,000?</p>

14 (Pages 53 to 56)

<p style="text-align: right;">61</p> <p>1 Shainberg</p> <p>2 A. From savings. And from my catering.</p> <p>3 Q. Other than what you have discussed here,</p> <p>4 do you know of any other assets in your name?</p> <p>5 A. No, I'm not sure.</p> <p>6 Q. Going back to the lawsuit in Southern</p> <p>7 District, now that we've gone through other things</p> <p>8 and where various shares of ICT have come from, does</p> <p>9 this refresh your recollection where these</p> <p>10 particular shares of ICT came from?</p> <p>11 A. I'm sorry?</p> <p>12 Q. The shares that were transferred to</p> <p>13 Switzerland, do you know where those shares of ICT</p> <p>14 came from?</p> <p>15 A. No. I would have to look back in my</p> <p>16 records.</p> <p>17 Q. Do you believe that you paid for those</p> <p>18 shares?</p> <p>19 A. I'm not sure, I would have to look, I</p> <p>20 apologize.</p> <p>21 Q. Don't apologize, the last thing I want</p> <p>22 you to do is take a guess. I'm sure that's what</p> <p>23 your lawyer told you.</p> <p>24 A. It's just been a very long time, I would</p> <p>25 have to look at my documents.</p>	<p style="text-align: right;">63</p> <p>1 Shainberg</p> <p>2 monthly for JFK such as real estate taxes or</p> <p>3 maintenance?</p> <p>4 A. There are city taxes and maintenance for</p> <p>5 the facility. We've had to repair a pump and the</p> <p>6 fence and pay the taxes.</p> <p>7 Q. How did you come to know about JFK as</p> <p>8 something to purchase?</p> <p>9 A. It was presented to me from an</p> <p>10 associate, a friend, and I thought it over. It was</p> <p>11 an interesting adventure.</p> <p>12 Q. Do you know anything about JFK -- let me</p> <p>13 rephrase that. Do you know anything about the oil</p> <p>14 storage business?</p> <p>15 A. No.</p> <p>16 Q. You don't have a degree in chemical</p> <p>17 engineering, do you?</p> <p>18 A. No.</p> <p>19 Q. Or petroleum engineering?</p> <p>20 A. No. I have a language degree.</p> <p>21 Q. Why did you feel that you were qualified</p> <p>22 to undertake the operation of an oil terminal?</p> <p>23 A. It was more for the real estate than</p> <p>24 anything. It was an investment more for the real</p> <p>25 estate. I was hoping that I could find someone who</p>
<p style="text-align: right;">62</p> <p>1 Shainberg</p> <p>2 Q. You're aware that the Securities and</p> <p>3 Exchange Commission has obtained a judgment against</p> <p>4 Mr. Shainberg for substantial sums, is that correct?</p> <p>5 A. I'm also aware that he's making a deal.</p> <p>6 Q. But the point is you're aware that</p> <p>7 there's a judgment right now?</p> <p>8 A. Yes.</p> <p>9 Q. Since you learned about the judgment has</p> <p>10 Mr. Shainberg transferred any properties or funds to</p> <p>11 you?</p> <p>12 A. He doesn't have anything to transfer.</p> <p>13 Q. What does Mr. Shainberg do during the</p> <p>14 day?</p> <p>15 A. He is helping me with JFK, he's looking</p> <p>16 for employment, he's putting feelers out for</p> <p>17 consulting jobs.</p> <p>18 Q. What does he basically do with respect</p> <p>19 to JFK?</p> <p>20 A. Again he's trying to help find people</p> <p>21 who are interested in coupling with our company. At</p> <p>22 this point it's not producing any income, it's not</p> <p>23 bringing anything in, it's no longer a source of</p> <p>24 income for me.</p> <p>25 Q. Are there any expenses that you incur</p>	<p style="text-align: right;">64</p> <p>1 Shainberg</p> <p>2 would take over that aspect of the business and I</p> <p>3 could recoup a profit on flipping it.</p> <p>4 Q. Was the JFK property brought to your</p> <p>5 attention through an associate of Mr. Shainberg?</p> <p>6 A. I believe he knew my husband. I'm not</p> <p>7 sure.</p> <p>8 Q. Do you know if Mr. Shainberg was</p> <p>9 involved in negotiations to obtain that?</p> <p>10 A. I'm sure I consulted him.</p> <p>11 Q. Do you know the name of the person from</p> <p>12 whom you acquired JFK?</p> <p>13 A. It's a Russian name.</p> <p>14 Q. I'll stop right there.</p> <p>15 A. Thank you.</p> <p>16 Q. Do you know approximately when this</p> <p>17 occurred?</p> <p>18 A. The purchase of JFK?</p> <p>19 Q. Yes.</p> <p>20 A. I don't know.</p> <p>21 Q. Let's say was it before 2003 or after</p> <p>22 2003 or about 2003?</p> <p>23 A. It was around 2003.</p> <p>24 Q. So it wouldn't have been before 2000?</p> <p>25 A. No.</p>

16 (Pages 61 to 64)